



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2014

Mr. C. Tyler Atkinson
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2014-04653

Dear Mr. Atkinson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 517556 (Fort Worth PIR No. W030972).

The City of Fort Worth (the "city") received a request for water records associated with a specified address. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential, such as section 182.052 of the Utilities Code, which provides in part:

(a) Except as provided by Section 182.054, a government-operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number, but does not include the individual’s name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. *See* Util. Code § 182.051(3). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See id.* § 182.054.

You state the information you have marked pertains to customers who timely requested confidentiality under section 182.052 for their personal information, the volume or units of their utility usage, and the amounts billed to or collected from them for that utility usage. You do not indicate, and it does not otherwise appear, any of the exceptions to confidentiality under section 182.054 apply in this instance. We understand the city’s primary source of water is not a sole-source designated aquifer. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. However, we find the remaining information you have marked does not constitute personal information or information relating to volume or units of utility usage, or amounts billed to or collected from individuals for utility usage. Accordingly, the remaining information may not be withheld under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

We note that the submitted information contains customer and location identification numbers. Section 552.136 of the Government Code provides in part that “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”¹ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *Id.* § 552.136(a). We understand customer and location identification numbers are combined to create a customer’s utility account number, which is used to obtain utility services. Accordingly, we find the city must withhold the customer and location identification numbers you have marked under section 552.136 of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception like section 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must withhold customer and location identification numbers under section 552.136 of the Government Code. The city must release the rest of the submitted information.

You also ask this office to issue a previous determination that would permit the city to withhold personal information in a government-operated utility's customer account record relating to individuals who have timely submitted a written confidentiality request under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code without the necessity of requesting a decision under section 552.301 of the Government Code. *See Gov't Code § 552.301(a)* (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/eb

Ref: ID# 517556

Enc. Submitted documents

c: Requestor
(w/o enclosures)