



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2014

Ms. Heather Silver
Assistant City Attorney
General Counsel Division
Office of the City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2014-04818

Dear Ms. Silver:

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# 517485.

The City of Dallas (the "city") received a request for information pertaining to residential water connections where water has been disconnected and where service is currently disconnected. You state the city will release some of the requested information. You claim some of the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note, and you acknowledge, the city has not complied with the procedural requirements of section 552.301 of the Governmental Code in requesting this ruling. *See id.* § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the information is public and must be released, unless the governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by law or affects third party interests. *See* Open Records Decision No. 150 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will consider your argument regarding this exception.

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. You claim section 552.101 of the Government Code in conjunction with 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). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See* Util. Code § 182.054.

You state the highlighted information consists of personal information that pertains to customers who timely requested confidentiality 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 under section 182.052. Upon review, we find the highlighted addresses consist of the personal information of customers who timely requested confidentiality under

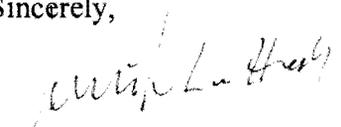
section 182.052. You also state none of the exceptions to confidentiality under section 182.054 apply in this instance. We understand that the primary source of water for the city's utility services is not a sole-source designated aquifer. Based on your representations and our review, the city must withhold the highlighted addresses under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. However, we find the highlighted Dallas County Appraisal District account numbers do not consist of an individual's address, telephone number, or social security number, and, thus, are not personal information for purposes of section 182.052. See Util. Code § 182.051(4).

You also assert that by requesting information pertaining to residential water connections where water has been disconnected and where service is currently disconnected, the instant request necessarily requires the city to reveal an individual's water usage information. Thus, we understand you to assert the highlighted Dallas County Appraisal District account numbers are confidential under section 182.052. However, we find you have not demonstrated how release of the highlighted Dallas County Appraisal District account numbers in this instance would reveal the volume or units of utility usage. Accordingly, the highlighted Dallas County Appraisal District account numbers are not confidential under section 182.052 and must be released regardless of whether the individuals at issue requested confidentiality. As you raise no other exceptions to disclosure, the city must release the remaining information.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 517485

Enc. Submitted documents

c: Requestor
(w/o enclosures)