



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2014

Ms. Cara Leahy White
Counsel for the City of Southlake
Taylor Olson Adkins Sralla Elam LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2014-06204

Dear Ms. White:

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# 519930.

The City of Southlake (the "city"), which you represent, received a request for water history records for a specified address during a specified time period. You claim the submitted 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

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 section encompasses information protected by other statutes, 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

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 those records contain substantially different types of information than that submitted to this office.

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.

(c) A government-operated utility shall include with a bill sent to each customer:

...

(3) a form by which the customer may request confidentiality by marking an appropriate box on the form and returning it to the government-operated utility.

Util. Code § 182.052(a)-(b), (c)(3). "Personal information" under section 182.052(a) is defined as "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. Util. Code § 182.051(3).

There is no indication any of the exceptions listed in section 182.054 is applicable to the submitted information. We understand the primary source of water for the district's utility services is not a sole-source designated aquifer. Section 182.052(b) provides the means by which a customer may request confidentiality for his or her personal information, certain utility usage information, and information relating to the amounts billed to or collected from the customer for utility usage. *See id.* § 182.052(a)-(b).

Although you provide documentation showing one of the individuals at issue timely requested confidentiality under section 182.052, we are unable to determine if the remaining individual at issue timely requested confidentiality. Therefore, we must rule conditionally. To the extent the individuals at issue did not request confidentiality of their personal information prior to the city's receipt of the request for information, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. To the extent the individuals at issue timely requested confidentiality, 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. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made).

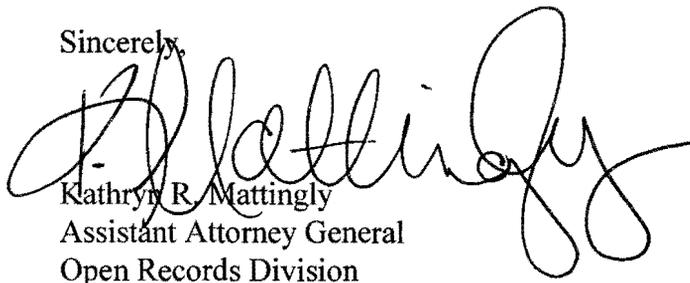
We note some of the remaining information is subject to section 552.136 of the Government Code.² Section 552.136 states “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the city must withhold the information we have marked under section 552.136 of the Government Code.³

In summary, to the extent the individuals at issue timely requested confidentiality, 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 the information we have marked under section 552.136 of the Government Code. The city must release the remaining information to the requestor.

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³Section 552.136(c) of the Government Code authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of requesting a decision from this office. Gov’t Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *Id.* § 552.136(d), (e).

Ref: ID# 519930

Enc. Submitted documents

c: Requestor
(w/o enclosures)