



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 27, 2014

Mr. Richard A. McCracken  
Counsel for City of Watauga  
Evans, Daniel, Moore, Evans & Lazarus  
115 West 2<sup>nd</sup> Street, Suite 202  
Fort Worth, Texas 76012

OR2014-19301

Dear Mr. McCracken:

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# 540751 (Request No. 14-119).

The City of Watauga (the "city"), which you represent, received a request for information pertaining to residential water connections where service was disconnected during a specified period of time, specifically the address, date, and appraisal district account number for the disconnected services. You state the city does not possess appraisal district account numbers.<sup>1</sup> 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.

We note the information we have marked is not responsive to the instant request for information because it does not consist of the requested addresses or dates of disconnected residential water services. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986).

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 primary source of water for the city’s utility services is not a sole-source designated aquifer. You assert the information you have highlighted pertains to customers who timely requested confidentiality under section 182.052. However, you have not provided confidentiality election forms for the customers whose information is at issue. Thus, we rule conditionally. To the extent the customers whose information is at issue elected confidentiality for their billing information prior to the date the city received the present request for information, the city must withhold the information you have highlighted under section 552.101 of the Government Code in conjunction with section 182.052(a). If the customers whose information is at issue did not elect confidentiality for their billing information prior to the date the city received the present request for information, the city may not withhold the information you have highlighted under section 552.101 in conjunction with section 182.052(a). In either case, as you raise no further exceptions to disclosure, the remaining responsive information must be released.

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](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,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping "G" and "H".

Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/akg

Ref: ID# 540751

Enc. Submitted documents

c: Requestor  
(w/o enclosures)