



January 12, 2015

Ms. Janet L. Kellogg  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2015-00540

Dear Ms. Kellogg:

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# 549667 (city file No. 1029).

The City of Corpus Christi (the "city") received a request for information reflecting delinquent utility payments by council members for 2013 and 2014. The city claims the requested information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code.<sup>1</sup> We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the request for information because it does not reflect delinquent payments by council members for 2013 and 2014. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information in response to this request.

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

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<sup>1</sup>We understand the city to raise section 552.117 based on its markings.

Code § 552.101. This exception encompasses section 182.052 of the Utilities Code, which provides in part as follows:

- (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, wastewater, gas, and garbage services are 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 under section 182.052 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 also state the exceptions to confidentiality under section 182.054 do not apply, and the primary source of water for the city's utility services is not a sole-source designated aquifer. Accordingly, we agree the city must withhold the submitted responsive information that reveals personal information of customers, the volume or units of their utility usage, and the amounts billed to or collected from them for that utility usage, a representative sample of which we have marked, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.<sup>2</sup> However, the remaining information that you seek to withhold does not consist of either personal information in a customer's account record or information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage. Thus, this information is not confidential under section 182.052, and the city may not withhold any portion of it under section 552.101 on that basis.

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<sup>2</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.

You indicate some of the remaining responsive information is confidential under common-law privacy, which section 552.101 of the Government Code also encompasses. The doctrine of common-law privacy protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find the remaining responsive information does not satisfy the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city may not withhold any of the remaining responsive information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). However, section 552.117 only applies to information held by a governmental body in an employment context. The information the city has marked under section 552.117 is contained in a city utility bill. Upon review, we find the city has not demonstrated it holds this information in an employment context. Accordingly, the city may not withhold any of the information at issue under section 552.117(a)(1) of the Government Code.

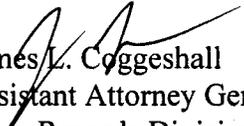
To conclude, the city must withhold the submitted responsive information that reveals personal information of customers, the volume or units of their utility usage, and the amounts billed to or collected from them for that utility usage, a representative sample of which we have marked, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must release the remaining responsive 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](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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 549667

Enc. Submitted documents

c: Requestor  
(w/o enclosures)