



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 23, 2015

Ms. Stephanie Storm
City of Wylie
300 Country Club Drive, Building 100
Wylie, Texas 75098

OR2015-19936

Dear Ms. Storm:

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# 580234.

The City of Wylie (the "city") received a request for the addresses and connection or shut-off dates pertaining to: (1) properties in which water services were disconnected during a specified time period, and (2) properties in which new water services were connected during a specified time period. You state the city will release some information to the requestor upon payment of costs. 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 information.

Initially, we note some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-18283 (2015). In that ruling, we determined the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code if the city's primary source of water is not a sole-source designated aquifer. Conversely, if the city's primary source of water is a sole-source aquifer, the city has the discretion to release the responsive information, notwithstanding the individuals' requests for confidentiality. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the city must continue to rely on Open Records Letter No. 2015-18283 as a previous determination and withhold or release the information at issue in accordance with that ruling.

Next, we note, with the exception of the property addresses and the connection and shut-off dates at issue, the remaining information is not responsive to the instant request. 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 these requests.

Section 552.101 of the Government Code exempts 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. Section 182.052 of the Utilities Code provides in relevant part the following:

(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 an individual’s name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). The scope of utility services covered by section 182.052 includes water, wastewater, sewer, gas, garbage, electricity, or drainage service. Util. Code § 182.051(3).

You state the remaining responsive information consists of the personal information of residential utility customers who timely requested confidentiality under section 182.052. You do not indicate any of the exceptions to confidentiality under section 182.054 apply in this instance. However, you do not inform us whether the city’s primary source of water is a sole-source designated aquifer. Accordingly, we must rule conditionally. If the city’s primary source of water is not a sole-source designated aquifer, then the city must withhold the remaining responsive addresses under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Conversely, if the city’s primary source of water is a sole-source aquifer, the city has the discretion to release the remaining responsive addresses, notwithstanding the individuals’ requests for confidentiality. However, we note the remaining responsive information consists of the connection and shut-off dates. We find the city has not demonstrated this information consists of 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; thus, the city may not withhold this information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

In summary, the city must continue to rely on Open Records Letter No. 2015-18283 as a previous determination and withhold or release the information at issue in accordance with that ruling. If the city's primary source of water is not a sole-source designated aquifer, then the city must withhold the remaining responsive addresses under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Conversely, if the city's primary source of water is a sole-source aquifer, the city has the discretion to release the remaining responsive addresses, notwithstanding the individuals' requests for confidentiality. 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, 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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 580234

Enc. Submitted documents

c: Requestor
(w/o enclosures)