



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 3, 2015

Ms. Stephanie Galanides  
City Secretary  
City of Heath  
200 Laurence Drive  
Heath, Texas 75032

OR2015-23099

Dear Ms. Galanides:

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# 585806.

The City of Heath (the "city") received a request for utility records pertaining to 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 information.

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. *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. 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 inform us the information at issue pertains to a utility customer who has timely requested to keep his or her information protected pursuant to section 182.052. You do not indicate any of the exceptions to confidentiality under section 182.054 apply in this instance. Accordingly, the city must withhold this customer’s address and telephone number within the submitted information 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). However, you do not inform us whether the city’s primary source of water is a sole-source designated aquifer. Therefore, we must rule conditionally. If the city’s primary source of water is not a sole-source designated aquifer, then the city must also withhold the amounts billed and collected for utility usage in the submitted information 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, then the city has the discretion to release the amounts billed and collected, notwithstanding the customer’s request for confidentiality. However, we find the remaining information does not constitute this customer’s personal, usage, or billing information subject to section 182.052 and the city may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.136 of the Government Code provides, “[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.”<sup>1</sup> Gov’t Code § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we find the city must withhold the information we have marked under section 552.136 of the Government Code.

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<sup>1</sup>The 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).

In summary, the city must withhold the customer's address and telephone number 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, then the city must also withhold the amounts billed and collected for utility usage in the submitted 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 a sole-source aquifer, then the city has the discretion to release the amounts billed and collected, notwithstanding the customer's request for confidentiality. The city must withhold the information we have marked under section 552.136 of the Government Code. 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](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,



Nicole Thomas  
Assistant Attorney General  
Open Records Division

NT/eb

Ref: ID# 585806

Enc. Submitted documents

c: Requestor  
(w/o enclosures)