



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 8, 2016

Ms. Akilah Mance
Counsel for the City of Hempstead
Olson & Olson, LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2016-05320

Dear Ms. Mance:

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# 601089 (ORR# COH15-024).

The City of Hempstead (the "city"), which you represent, received a request for a list of city water utility customers delinquent on their bills. You indicate the city will withhold utility account numbers pursuant to section 552.136(c) of the Government Code.¹ You claim some of 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.²

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

¹Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* 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). *See id.* § 552.136(d), (e).

²We 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.

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) includes an individual's address, 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. Util. Code § 182.051(3). We note because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable only to information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See* ORD 625 at 4-5 (in context of section 182.051 (4) of the Utilities Code, "individual" means only natural persons and does not include artificial entities).

You state portions of the submitted information consist 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. We understand the primary source of water for the city's utility services is not a sole-source designated aquifer. Upon review, we find some of the information you have highlighted pertains to business entities. This information, which we have marked for release, may not be withheld under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Based on your representations and our review of the submitted information, we find with the exception of the information we marked for release, the city must withhold the personal information you highlighted 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). In addition, 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 also withhold the billing information pertaining to these individual customers, 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. 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 billing information under section 552.101 in conjunction with section 182.052(a). In either case, 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, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 601089

Enc. Submitted documents

c: Requestor
(w/o enclosures)