



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 13, 2016

Mr. Christopher Gregg
Counsel for the City of Nassau Bay
Gregg & Gregg, P.C.
16055 Space Center Boulevard, Suite 150
Houston, Texas 77062

OR2015-08258

Dear Mr. Gregg:

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# 605787.

The City of Nassau Bay (the "city"), which you represent, received a request for information on the water services account at a specified address. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Upon review, we find the city must withhold the information we have marked under 552.130 of the Government Code.¹

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. Section 552.101 encompasses section 182.052 of the Utilities Code, which provides in relevant part, the following:

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

(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). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). "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). A customer's request for confidentiality must precede the utility's receipt of the request for information. ORD 625 at 6.

You contend some of the remaining information is subject to section 182.052. You state, and have submitted documentation demonstrating, the customer at issue timely requested confidentiality under section 182.052(b). Accordingly, the city must withhold the address and phone numbers we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. We are unable to determine, however, whether the primary source of water for the city's utility is a sole-source designated aquifer. As such, we rule conditionally for the information at issue revealing the amounts billed. The city must withhold the information revealing the amounts billed, which we have indicated, under section 552.101 in conjunction with section 182.052 if the primary source of water is not a sole-source designated aquifer. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). If the primary source of water is a sole-source designated aquifer, then the city has the discretion to release the information revealing the amounts billed, notwithstanding the customer's request for confidentiality.

In summary, the city must withhold the information we have marked under section 552.130 of the Government Code. The city must withhold the address and phone numbers we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must withhold the information revealing the amounts billed, which we have indicated, under section 552.101 in conjunction with section 182.052 if the primary source of water is not a sole-source designated aquifer. 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,

A handwritten signature in black ink, appearing to read "Sean Nottingham".

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/som

Ref: ID# 605787

Enc. Submitted documents

c: Requestor
(w/o enclosures)