



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 2, 2016

Mr. David V. Overcash
Counsel for City of Anna
Wolfe, Tidwell & McCoy, L.L.P.
2591 Dallas Parkway, Suite 300
Frisco, Texas 75034

OR2016-19920

Dear Mr. Overcash:

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# 628478 (City File No. W000633-071016).

The City of Anna (the "city"), which you represent, received a request for all records involving the requestor, his son, his spouse, or his address. You state the city has released some responsive information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some of the submitted information, which you have marked, is not responsive to the instant request. 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 such 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 Code § 552.101. Section 552.101 encompasses section 182.052 of the Utilities Code, which 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). 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 state the information you have marked consists of personal information of a city utility customer, as well as the customer's utility usage and billing amounts. We understand the primary source of water for the city's utility services is not a sole-source designated aquifer. Further, you state none of the exceptions to confidentiality under section 182.054 apply in this instance. However, while you assert the information at issue pertains to a customer who timely requested confidentiality under section 182.052, you have not provided us with the customer's confidentiality election form. Thus, we rule conditionally. To the extent the customer whose information is at issue elected confidentiality for his information prior to the date the city received the present request for information, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 182.052(a). If the customer whose information is at issue did not elect confidentiality for his information prior to the date the city received the present request for information, then the city may not withhold the information at issue under section 552.101 in conjunction with section 182.052(a).

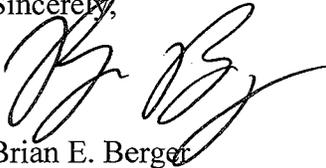
Section 552.136 of the Government Code states "Notwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, we find the city must withhold the information you have marked under section 552.136 of the Government Code.

In summary, to the extent the customer whose information is at issue elected confidentiality for his information prior to the date the city received the present request for information, the city must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. The city must withhold the information you have marked under section 552.136 of the Government 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, 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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 628478

Enc. Submitted documents

c: Requestor
(w/o enclosures)