



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

March 16, 1989

Mr. Howard D. Bye
Matthews & Branscomb, P.C.
One Alamo Center
San Antonio, Texas 78205

Dear Mr. Bye:

This is to acknowledge our telephone conversations regarding Open Records Decision No. 520 (1989). You noted that the requests for information made by Judy J. Irvin and A. John Price were not addressed in that decision. Your letter submitting copies of their requests has been assigned ID# 5837. This supplemental decision is OR89-87.

Ms. Irvin asked that you disclose "the amount of sales tax that each commercial gas and electric customer of CPS is assessed." Mr. Price asked for "the sales tax status of customer accounts and the amount of sales tax paid by CPS customers." Open Records Decision No. 520 (1989) held that both the sales tax status of CPS customer accounts and the amount of sales tax paid by CPS customers is public information and must be released. Open Records Decision No. 520 contains the following language:

The specific information requested that you claim is exempt from disclosure includes the sales tax status of customer accounts and billing amounts for these customers.

* * *

[N]one of the requested material is excepted from disclosure as information 'deemed confidential' by section 151.027 of the Tax Code.

* * *

You did not specify how release of the requested information would affect a

particular utility customer. Absent such a showing, section 3(a)(4) does not apply.

* * *

The information at issue here does not meet the definition of 'trade secret' adopted by the Texas Supreme Court in Hyde Corp. v. Huffines, 314 S.W.2d 763, 776 (Tex.), cert. denied, 358 U.S. 898 (1958).

Nor does the information constitute commercial or financial information as contemplated by section 3(a)(10).

* * *

Finally, please note that section 6(3) of the act specifically makes public 'information in any account, voucher, or contract dealing with the receipt or expenditure' of public funds. (Emphasis added.)

Thus, Open Records Decision No. 520 ruled that the amount CPS customers are billed is public information. Further, this office has ruled previously that customer utility bills are public information. See Open Records Decision Nos. 443 (1986); 51 (1974).

The information at issue is public information and must be released immediately. Please be advised that failure to provide information that the attorney general has determined to be public may give rise to an action for a writ of mandamus pursuant to section 8 of the Open Records Act or to criminal sanctions under section 10 of the act.

If you have any questions regarding this letter please refer to OR89-87.

Yours very truly,
Open Government Section
of the Opinion Committee
Jennifer S. Riggs
Chief, Open Government Section
of the Opinion Committee

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