



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

Mr. Harvey Cargill, Jr.  
City Attorney  
City of Abilene  
P.O. Box 60  
Abilene, Texas 79604

OR95-1563

Dear Mr. Cargill:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26892.

The City of Abilene (the "city") received a request from Household Driver's Report, Inc. ("HDR") for information about water utility customers. The information requested includes customer names, account numbers, addresses, hot check history, social security numbers, telephone numbers, and drivers' license numbers.<sup>1</sup> You contend that the requested information is excepted from disclosure pursuant to article 1446h, V.T.C.S.

Section 2 of article 1446h provides as follows:

Except as provided by Section 5 of this Act, a government-operated utility may not disclose personal information in a customer's account records if the customer requests that the government owned utility keep the information confidential. The customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Section 4(3) of this Act

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<sup>1</sup>We note that HDR originally sought this information prior to the effective date of article 1446h, September 1, 1993. Based on correspondence between the city and HDR that was submitted to this office, it appears that the city made available to HDR microfiche and printed records of the requested information, but did not have the information available in the magnetic media formats requested by HDR. HDR made another open records request for information at issue as of May 26, 1994. The city timely requested a decision from this office concerning that request. See Gov't Code § 552.301.

or any other written request for confidentiality. The customer may rescind a request for confidentiality by providing the government-operated utility written permission to disclose personal information.

Since section 1(2) of article 1446h defines "personal information" as an individual's address, telephone number, or social security number, other customer information is not protected from disclosure by article 1446h. In Open Records Decision No. 625 (1994) at 3-4 (copy enclosed), this office determined that the section 2 confidentiality is not applicable to utility customers who are "artificial entities" such as corporations. This confidentiality provision extends only to customers who are "natural persons" rather than business entities. Open Records Decision No. 625 (1994) at 3. Section 2 also is not applicable to individual customers who, at the time of the request for information, have not requested confidentiality. Open Records Decision No. 625 (1994) at 4-6 (The character of information as confidential or public is determined at the time the request is made). Therefore, the city must release to HDR the requested non-personal customer information on all customers and the personal information about its business customers and individual customers who had not requested confidentiality.

The remaining question is whether the city must disclose the addresses, telephone numbers, and social security numbers of individual customers who had asked as of the time of the request that this information be kept confidential. *See Id.* at 4-6. As discussed in Open Records Decision No. 625 (1994) at 6-8, a government-operated utility must disclose personal information in its customer account records to the persons and entities listed in section 5 of article 1446h. Open Records Decision No. 625 (1994) at 6-8. You state that HDR contends it is a section 5 entity to whom information must be disclosed. The city may require HDR to provide proof that it is a section 5 entity. Open Records Decision No. 625 (1994) at 8-10. If the city determines that the requestor falls under section 5, the city must disclose to HDR the names, addresses, and social security numbers of individual customers who had requested that this information be kept confidential. This confidential information otherwise must not be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/MAR/rho

Ref.: ID# 26892

Enclosure: Open Records Decision No. 625 (1994)

cc: Ms. Sandra Lambert  
Marketing Director  
Household Driver's Report  
17629 El Camino Real, Suite 420  
Houston, Texas 77058  
(w/o enclosure)