



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 21, 1997

Ms. Barbara K. Salyers
Jackson & Walker, L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202-3797

OR97-0885

Dear Ms. Salyers:

On behalf of the Combined Consumers Water Supply Corporation ("CCWSC"), you ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 105774.

CCWSC received a request for various information. You ask whether CCWSC must release to the requestor documents CCWSC has previously released to the requestor. You assert that pursuant to V.T.C.S. article 1446h, CCWSC must not release to the requestor the requested customer files. You also state that the customer files contains private information. Finally you assert that the requested attorney fee statements are excepted from required public disclosure based on sections 552.103 and 552.107(1) of the Government Code.

The requestor informs this office that CCWSC has not provided her information she has previously requested. This office cannot resolve questions of fact. *See* Open Records Decision No. 426 (1985). Furthermore, the act contains no provision excepting from required public disclosure information that the requestor has previously requested and/or received.

We turn to the customer information. V.T.C.S. article 1446h, section 2, reads 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-operated 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 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.

“Personal information” means an individual’s address, telephone number, or social security number. V.T.C.S. art. 1446h, § 1(2). The statute does not protect the personal information of a customer that is a corporation, partnership, or other business association. *See* Open Records Decision No. 625 (1994). The exceptions to confidentiality in section 5, which permit the disclosure of personal information to certain individuals and entities, are apparently not applicable here.

Section 552.101 of the Government Code excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This provision incorporates into the act specific statutes that make information confidential, such as V.T.C.S. article 1446h. We conclude that, pursuant to Government Code section 552.101 in conjunction with V.T.C.S. article 1446h, CCWSC must not release to the requestor the address, telephone number and social security number of customers, other than corporations, partnerships, or other business associations, who have requested that the information be kept confidential. As for your privacy concerns, we conclude that, as the customer files relate to a financial transaction between individuals and a governmental body, the common-law right to privacy does not protect the files from public disclosure. *See* Open Records Decision No. 443 (1986).

You assert that the attorney fee statements are excepted from public disclosure based on Government Code sections 552.103 and 552.107(1). Section 552.103 of the Government Code excepts from required public disclosure information that relates to pending or reasonably anticipated litigation to which the governmental body is a party. According to the Stipulation entered into by the parties in *Murrey v. Combined Consumers Water Supply Corporation*, No. 57490 (196th Dist. Ct., Hunt County, Texas), Defendant is claiming attorneys’ fees. You indicate that this litigation is ongoing. You also state that several lawsuits have been brought against CCWSC, “some of which are ongoing.” We conclude that CCWSC may withhold the highlighted information on the fee bills from the requestor based on section 552.103 of the Government Code.¹

¹If the opposing party in the litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, the applicability of section 552.103(a) ends once the litigation is concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this 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,

A handwritten signature in cursive script, reading "Kay Guajardo", with a horizontal line extending to the right from the end of the signature.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 105774

Enclosures: Marked documents

cc: Ms. Carol Murrey
Route 3, Box 429
Wills Point, Texas 75169
(w/o enclosures)

