



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 26, 1998

Mr. Brian A. Quintero
Assistant County Attorney
General Counsel Division
El Paso County Courthouse
500 E. San Antonio, Rm 203
El Paso, Texas 79901

OR98-2495

Dear Mr. Quintero:

You ask 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# 119040.

El Paso County (the "county") received a request from the El Paso Central Appraisal District (the "appraisal district") for "the Utility Service Connections list that is compiled weekly for El Paso County." You contend that section 366.005 of the Health and Safety Code prohibits the county from releasing the list to the appraisal district. You state that you are also unaware of any other authority that would allow the county to provide the list to the appraisal district.

Section 366.005 of the Health and Safety Code provides as follows:

(a) An electric utility shall compile a list weekly for each county in this state of the addresses located in an unincorporated area of the county at which the electric utility has made new electric service connections during the preceding week. The electric utility shall submit the list to the county judge of the county who shall forward the list to each authorized agent having jurisdiction over an area in which an address on the list is included. The authorized agent may use the list for the purpose of implementing and enforcing rules under this chapter. This section does not apply to a reconnection of service to a location previously served.

(b) An electric utility may not be held liable for a claim arising from the provision of information under this section.

(c) Information provided by a utility under this section is confidential and not subject to disclosure under Chapter 552, Government Code, or otherwise, except as provided by this section.

(d) In this section, "electric utility" means an investor-owned utility, electric cooperative corporation, river authority, or municipally owned utility that provides distribution service to retail customers of electricity.

Section 366.002(1) defines an "authorized agent" as a local governmental entity authorized by the Texas Natural Resource Conservation Commission to implement and enforce on-site sewage facility rules under chapter 366 of the Health and Safety Code.

Section 366.005(a) specifically requires the county judge to forward the weekly list to each authorized agent having jurisdiction over an area in which an address on the list is included. The statute does not provide for release of the list to anyone other than an authorized agent. You indicate that the authorized agent in this instance is the El Paso City-County Health and Environmental District. Because the appraisal district does not qualify as an authorized agent, you argue that section 366.005(c) prevents the county from releasing the list to the appraisal district. We agree.

We note that this office has uniformly concluded that information may be transferred between governmental agencies which are subject to the Open Records Act without destroying the confidential nature of the information. Open Records Decision No. 655 (1997) and authorities cited therein. However, the principle that information may be transferred without destroying its confidential character does not apply where a statute makes the information confidential and allows the transfer of the information to only certain enumerated entities. *Id.* In this case, section 366.005(c) makes the weekly list confidential and allows for disclosure only as provided by section 366.005. Section 366.005 authorizes the county to release the weekly list only to an authorized agent. Thus, we believe that section 366.005 prevents the county from releasing the weekly list to the appraisal district.

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 should 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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 119040

Enclosure: Submitted document

cc: Ms. Cora Viescas
Executive Director/Chief Appraiser
El Paso Central Appraisal District
5801 Trowbridge Drive
El Paso, Texas 79925-3345
(w/o enclosure)