



December 3, 1999

Ms. J. Kay Trostle
Brown McCarroll & Oaks Hartline, L.L.P.
111 Congress Avenue, Suite 1400
Austin, Texas 78701-4043

OR99-3471

Dear Ms. Trostle:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130185.

The West Harrison Water Supply Corporation (“West Harrison”), which you represent, received a request for fifteen categories of information all concerning the costs that West Harrison incurs and the rates that it charges in providing water services. West Harrison has apparently released some of the requested information. You state that you do not have documents responsive to the request items 6, 7, 8, 10, and 14. You claim that the remaining requested information is excepted from disclosure under section 552.103 of the Government Code, and alternatively, that portions of the remaining requested information are confidential under section 182.052 of the Utilities Code.¹ We have considered your arguments and reviewed the submitted representative sample of the documents at issue.²

Section 552.301 of the Government Code dictates the procedure that a governmental body must follow if it wishes to ask the attorney general for a decision determining whether requested information falls within an exception to disclosure. Among other requirements, the governmental body “must provide to the requestor . . . not later than the 10th business day

¹You concede that West Harrison is a “governmental body” as defined by section 552.003 of the Government Code.

²We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

after the date of receiving the requestor's written request . . . a copy of the governmental body's written communication to the attorney general asking for the decision or, if the governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication." Act of May 25, 1999, 76th Leg., R.S., ch 1319, § 20, 1999 Tex. Sess. Law Serv. 4500, 4508-4509 (Vernon) (to be codified as an amendment to TEX. GOV'T CODE § 552.301). Otherwise, the requested information "is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information." Act of May 25, 1999, 76th Leg., R.S., ch 1319, § 21, 1999 Tex. Sess. Law Serv. 4500, 4509-4510 (Vernon) (to be codified as an amendment to TEX. GOV'T CODE § 552.302).

You state that West Harrison received the request for information on September 22, 1999. West Harrison's deadline for providing the requestor with a copy of its communication to the attorney general expired ten business days later on October 6, 1999. However, the requestor states, and you admit, that West Harris did not provide the requestor with its communication to the attorney general until October 19, 1999. Therefore, West Harris failed to follow the required procedure prescribed by section 552.301. Consequently, the requested information is presumed subject to release unless there is a compelling reason to withhold the information. We find that minor portions of the documents at issue are confidential by another source of law, and therefore a compelling reason exists to withhold these portions of the requested records. See Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Accordingly, section 552.101 encompasses confidentiality provisions such as section 182.052 of the Utilities Code. Generally, that section provides that "a government-operated utility may not disclose personal information in a customer's account record if the customer requests that the government-operated utility keep the information confidential." "Government-operated utility" means a governmental body as defined by section 552.003 of the Government Code "that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service." Util. Code § 182.051(2), (3). "Personal information" is defined as "an individual's address, telephone number, or social security number." Util. Code § 182.051(4). A customer may request confidentiality by submitting to the utility a specific form or by any other written request for confidentiality. Util. Code § 182.052(b).

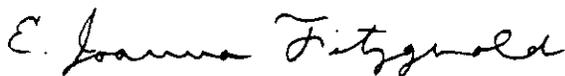
You argue that information contained in the documents that are responsive to request-categories twelve and thirteen is confidential under section 182.052. To the extent that the information responsive to request-categories twelve and thirteen constitutes "personal information" of *individual* customers who have requested confidentiality in accordance with section 182.052, then the addresses, phone numbers, and social security numbers are

confidential under that provision as encompassed by section 552.101 of the Government Code. However, section 182.052 does not apply to businesses. Thus, addresses and phone numbers of businesses that appear in the responsive documents are not confidential under section 182.052 and must be released.

Furthermore, any Texas drivers' license numbers that appear in the responsive documents are confidential. Section 552.130 makes confidential information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. Therefore, West Harrison must withhold any Texas drivers' license numbers.

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.

Sincerely,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/nc

Ref: ID# 130185

Encl. Submitted documents

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(w/o enclosures)