



November 7, 2000

Ms. Cynthia B. Garcia
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2000-4338

Dear Ms. Garcia:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141051.

The City of Fort Worth (the "city") received two requests for similar information. One requestor seeks "a listing of the top 25 residential water users for your city for the months of June 1999, July 1999, June 2000 and July 2000." The other requestor seeks two lists, one showing "the top ten corporate water consumers," and the other showing "the top ten residential water consumers," both for "the last or most recent month." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common law privacy. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. This office has long held that names and home addresses are not ordinarily intimate and embarrassing, and are therefore generally not confidential under common law privacy. *See* Open Records Decision Nos. 480 at 7 (1987), 455 at 7, 8 (1987), 169 at 6 (1977). Moreover, while personal financial information is generally considered intimate and embarrassing, information regarding a financial transaction between an individual and a governmental body is a matter of legitimate public interest and, therefore, not generally protected from public disclosure by common law privacy. Open Records Decision Nos. 590 at 3 (1991), 523 at 3-4 (1989).

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The submitted information consists of names of residential and commercial customers of the city's water utility, and, for each name, corresponding billing information including the total dollars billed and the total gallons of water used. A corporation or other business entity does not have a common law right to privacy. *See* Open Records Decision No. 600 (1992). Therefore, the information concerning the commercial customers is not confidential under common law privacy as encompassed by section 552.101. As for the information regarding the residential customers, we find that their names are not intimate and embarrassing and are therefore not confidential under common law privacy as encompassed by section 552.101. *See* ORD 480.¹ Furthermore, we find that these customers' billing information reflects these individuals' financial transactions with a governmental body and is therefore a matter of legitimate public interest. Consequently, the residential customers' billing information is not confidential under common law privacy as encompassed by section 552.101. Therefore, the city must release the submitted information in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

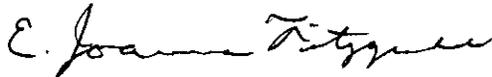
¹*See also* Util. Code §§ 182.051(4), 182.052 (prohibiting a government-operated utility from disclosing the address, telephone number, or social security number contained in a residential customer's account record if the customer requests that the government-operated utility keep the information confidential).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\er

Ref: ID# 141051

Encl: Submitted documents

cc: Mr. John Williams
Houston Chronicle
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(w/o enclosures)

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