Office of the Attorney General · State of Texas
John Cornyn

December 29, 2000

Ms. Linda S. Zartler
Assistant to the City Manager
City of Boerne
P.O. Box 1677
Boerne, Texas 78006

OR2000-4949

Dear Ms. Zartler:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144129.

The City of Boerne (the "city") received a request for the forwarding address of a named individual. You claim that the requested information is excepted from disclosure under section 182.052 of the Utilities Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from required public disclosure information that is considered to be confidential by law, including information that is made confidential by statute. You claim that the requested information is confidential under section 182.052 of the Utilities Code. Section 182.052 provides in relevant part:

> (a) Except as provided by Section 182.054, 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.

Util. Code § 182.052(a). "Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. *See* Util. Code § 182.051(4). None of the exceptions to confidentiality listed in section 182.054 appears to be applicable in this instance. You inform us that the customer in question has requested

confidentiality for her personal information. Based on your representations and our review of the records you submitted, we conclude that the requested address information is confidential under section 182.052 of the Utilities Code. *See also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Therefore, you must withhold that information from the requestor under section 552.101 of the Government Code.

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).

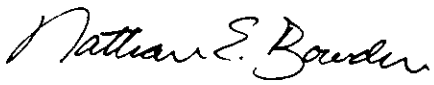
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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).

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 Dep't of Pub. 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 Hadassah Schloss at 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,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/seg

Ref: ID# 144129

Encl. Submitted documents

cc: Robert J. Ogle
118 Saunders, Suite 2
Boerne, Texas 78006
(w/o enclosures)