



May 16, 2001

Ms. Lala Garcia  
Office Manager  
El Paso County Water Control & Improvement District No. 4  
P.O. Box 3880  
Fabens, Texas 79838-3880

OR2001-2022

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# 147390.

The El Paso County Water Control & Improvement District No. 4 (the "district") received a request for a copy of a "Grease Trap Investigation Compliance Report." You state that you have provided a copy of the report to the requestor but have redacted business names and addresses. You contend that the names and addresses are excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments and have reviewed the submitted information.

Pursuant to section 552.301(e)(1), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(A)-(D). You have not, however, submitted a copy of the written request for information as required by section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301(e) results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome

presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You argue that the names and addresses are excepted under section 552.101 of the Government Code. Section 552.101 of the Government Code provides a compelling reason to overcome the presumption of openness. *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). Accordingly, we will address your exception.

Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by statute. Although you have not provided a statute that makes information confidential, we assume that you are referring to section 182.052(a) of the Utilities Code. Section 182.052(a) of the Utilities Code provides that, with certain exceptions not applicable here, a government-operated utility must withhold from the public “personal information” contained in a utility customer’s account records if the utility customer has requested that the information be kept confidential.

Section 182.051(4) of the Utilities Code defines “personal information” as “an *individual’s* address, telephone number, or social security number.” Util. Code § 182.051(4) (emphasis added). Section 182.051(4) only applies to an individual and does not apply to information regarding corporations, partnerships, or other business associations. *See* Open Records Decision No. 625 at 3-4 (1994) (interpreting predecessor statute). Because the submitted information pertains to businesses, section 182.052(a) is not applicable. Accordingly, you may not withhold the business addresses under section 552.101 in conjunction with section 182.052(a). Because you have not claimed any other exception to disclosure and we are unaware of any law that would make the information confidential, we find that you must release the names and addresses.

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).

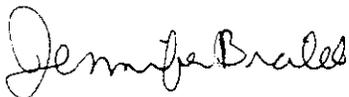
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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



Jennifer H. Bialek  
Assistant Attorney General  
Open Records Division

JHB/sdk

Ref: ID# 147390

Encl: Submitted documents

cc: Mr. Moises Olmos, Jr.  
P.O. Box 442  
Fabens, Texas 79838  
(w/o enclosures)