



October 9, 2002

Ms. Kathy L. Torres  
City Secretary  
City of Pleasanton  
P.O. Box 209  
Pleasanton, Texas 78064

OR2002-5732

Dear Ms. Torres:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170369.

The City of Pleasanton (the "city") received a request for information regarding water meter readings and water usage for residences on a specified block in the city dating from 1999, and for "the current confidentiality/privacy agreement executed by the customer" at a specified address. You have not submitted any confidentiality agreements to this office for review. Therefore, we assume that, to the extent this information exists, it has been released to the requestor. If not, you must release it immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances). Although you state that the requested information is generally available, you seek to withhold the names, addresses, telephone numbers, and social security numbers of four particular city utility customers under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code 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, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. However, a government-operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole-source designated aquifer.

"Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. Util. Code § 182.051(4).

You inform us that the four utility customers at issue completed a form, a copy of which you have submitted for our review, requesting confidentiality for certain account information. The form you have submitted asks the customer to indicate the customer's preference regarding the confidentiality of addresses, telephone numbers, and social security numbers. *See* Util. Code § 182.051(4). Upon review of the account information you have submitted, we note that the records contain the customers' addresses. None of the exceptions to confidentiality listed in section 182.054 apply in this instance. Accordingly, we determine the city must withhold the customers' addresses under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. We note, however, that you also seek to withhold the customers' names. A customer's name is not included in the definition of "personal information" under section 182.051(4) of the Utilities Code. Thus, the names of the four utility customers at issue are not confidential under section 182.052(a) and must be released to the requestor.

The requestor also seeks water usage information. While the account information contains water usage information, we note that the confidentiality request form you have submitted for our review does not give a customer the option to choose to keep water usage information confidential. Thus, we are unable to determine from the information provided whether the customers at issue requested that water usage information be kept confidential. Furthermore, section 182.052(a) of the Utilities Code provides that the utility may disclose a customer's water usage information, notwithstanding the customer's request for confidentiality, if the primary source of water for such utility was a sole-source designated aquifer. We are also unable to determine from the information provided whether the primary source of water for the city's utility is a sole-source designated aquifer. Therefore, we make the following determination: if the primary source of water for the city utility is not a sole-source designated aquifer, and if the customers at issue requested that their water usage information be kept confidential prior to the city's receipt of the present request, we determine that such information is confidential under section 182.052 of the Utilities Code and must be withheld. *See also* Open Records Decision No. 625 (1994) (construing statutory predecessor). If, however, the primary source of water is a sole-source aquifer, and the customers timely

requested that their water usage information be kept confidential, the city has the discretion to release such water usage information, notwithstanding the customers' requests for confidentiality. Finally, in either circumstance, if the customers at issue did not timely elect to keep water usage information confidential, then the city must release this information to the requestor.

In summary, the names of the four customers at issue must be released. The customers' addresses must be withheld under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the primary source of water for the city utility is not a sole-source aquifer and the customers timely elected to keep water usage information confidential, then the city must withhold this information under section 552.101 in conjunction with section 182.052. If the primary source of water for the city utility is a sole-source aquifer, the city has the discretion to release water usage information. If the customers at issue did not timely elect to keep water usage information confidential, the city must release this information to the requestor.

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 Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID# 170369

Enc: Submitted documents

c: Ms. Patricia Tymrak-Daughtrey  
P.O. Box 23  
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(w/o enclosures)