



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2003

Ms. Veronica Ocanas
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2003-8717

Dear Ms. Ocanas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192189.

The City of Corpus Christi (the "city") received a request for the utilities records for two specified addresses for the years 2000, 2001, and 2002 and the person "by whom they were paid." You inform us that the city is releasing some of the requested information. You claim that other responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

We first note that some of the submitted information does not relate to the calendar years specified by the requestor and thus is not responsive to his request. This decision is not applicable to the non-responsive information, and that information need not be released.

Next, we address your claim with regard to the responsive information that you have submitted. Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 182.052 of the Utilities Code. This section provides in 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.

(b) A customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

Util. Code § 182.052(a)-(b). "Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor).

You indicate that the utility customers to whom the responsive information relates requested confidentiality under section 182.052. You do not indicate, nor does it otherwise appear to this office, that any exception to confidentiality under section 182.052 is applicable in this instance. *See* Util. Code § 182.054. You have previously informed us that the city's primary source of water was not a sole-source designated aquifer. However, you have not informed us, or submitted any documentation that reflects, whether the customers in question requested confidentiality for the information at issue before the city received the present request for information. *See* Open Records Decision No. 625 at 7 (utility billing information must be released unless customer requests confidentiality before city receives request for information). Nevertheless, if the information that we have marked relates to a customer who requested confidentiality for that information under section 182.052 before the city received this request, then the marked information for which the customer requested confidentiality must be withheld from the requestor under section 552.101 of the Government Code. If the customer to whom the marked information relates did not timely request confidentiality for that information under section 182.052, then the marked information is not excepted from disclosure under section 552.101 of the Government Code and must be released. In either event, the city must release the rest of the responsive information.

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).

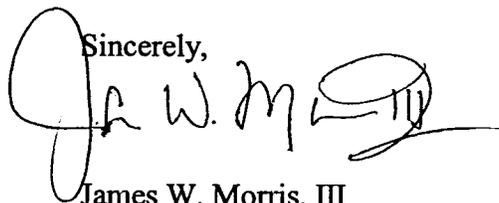
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following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

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal flourish at the end.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 192189

Enc: Submitted documents

c: Mr. Martin Lambert
3729 O'Day Parkway
Corpus Christi, Texas 78415
(w/o enclosures)