



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2005

Mr. Paul M. Fukuda
City Attorney
City of Bridge City
P. O. Box 846
Bridge City, Texas 77611

OR2005-06400

Dear Mr. Fukuda:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 228440.

The City of Bridge City (the "city") received a request for the forwarding address of a water utility customer. You claim that the requested information is confidential under section 182.052 of the Utilities Code. We thus understand you to claim section 552.101 of the Government Code as an exception to disclosure. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code exempts 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 that "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). Section 182.052(b) provides that a customer may request confidentiality by an appropriately marked form provided under section 182.052(c)(3) or any other written request for confidentiality. "Personal information" under section 182.052(a) includes an individual's address. *Id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

You indicate that the city's water department is a government-operated utility. You assert that the submitted information contains the address of a water service customer. You do not inform us, however, if the customer has made a timely request under section 182.052(b) to

keep his address confidential. Therefore, if the customer made a timely request to keep his address confidential, the customer's address is confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code on that basis. See Open Records Decision No. 625 (1994) (construing statutory predecessor). However, the address of a customer who did not make a timely election of confidentiality is not confidential under section 182.052, and the city may not withhold it under section 552.101 on that ground. The remaining submitted information is not responsive to the instant request for information; the department need not release it in response to this request and this ruling will not address that information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd).

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

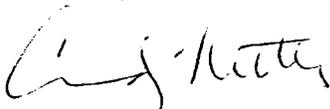
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/krl

Ref: ID# 228440

Enc. Submitted documents

c: Mr. Joseph Cook
2671 FM 2802
Orange, Texas 77632
(w/o enclosures)