ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 29, 2005

Ms. YuShan Chang
Assistant City Attorney
City of Houston Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR2005-10668

Dear Ms. Chang:

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# 236923.

The City of Houston (the "city") received a request for information related to "water customers whose rate/class = Lawn Meter." You claim that names, addresses, telephone numbers, account numbers, dates of billing, billing amounts, and utility usage information contained in the requested information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

Section 552.101 of the Government Code 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:

[1]We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

> (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.

Util. Code § 182.052(a). "Personal information" under section 182.052(a) means an individual's address, telephone number, or social security number. *Id.* § 182.051(4). We note that the names of customers are not included in the definition of personal information, and therefore are not confidential under section 182.052 of the Utilities Code. Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3). Section 182.054 of the Utilities Code provides six exceptions to section 182.052(a)'s disclosure prohibition. *See id.* § 182.054. You have provided no information to allow us to conclude that these exceptions apply in this case.

You state that the city's Public Works and Engineering Department is a government-operated utility. You inform us that the primary source of water for the city's utility is not a sole-source designated aquifer. You further state that the customers at issue requested that "personal information" in their utility account records be kept confidential. We conclude that if the election for privacy was made prior to the date the city received the present request, the city must withhold the customers' addresses and telephone numbers, as well as any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage based on section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. We note, however, that section 182.052 is applicable only to an individual and does not protect information relating to a corporation, partnership, or other business entity. *See* Open Records Decision No. 625 at 4-5 (1994) (construing statutory predecessor).

We note that the submitted information contains customer account numbers that are subject to section 552.136 of the Government Code. Section 552.136 provides in relevant part:

> (a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:
>
> (1) obtain money, goods, services, or another thing of value; or
>
> (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

> (b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. The city must withhold customer account numbers pursuant to section 552.136 of the Government Code.

In summary, the city must withhold the address and telephone number of a utility customer, as well as any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, under section 552.101 of the Government Code if the individual timely requested confidentiality for that information under section 182.052 of the Utilities Code. The city also must withhold customer account numbers under section 552.136. The remaining submitted information must be released 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, 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); *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 Office of the Attorney General 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,

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jpa

Ref: ID# 236923

Enc. Submitted documents

c: Mr. Clay Spitz
Water Logic
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Houston, Texas 77057
(w/o enclosures)