



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2005

Mr. Frank J. Garza
Davidson & Troilo, P.C.
7550 W IH-10, Suite 800
San Antonio, Texas 78229-5815

OR2005-11337

Dear Mr. Garza:

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# 238561.

The Brownsville Public Utility Board (the "board"), which you represent, received a request for information pertaining to a customer of a specified account number. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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(a) of the Utilities Code provides in relevant part the following:

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

¹We 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.

billed to or collected from the individual for utility usage, if the customer requests that the government-operated utility keep the information confidential. . . .

Util. Code § 182.052(a). For purposes of chapter 182 of the Utilities code, “personal information” means “an individual’s address, telephone number, or social security number.” *Id.* § 182.051(4).

The submitted documents contain information pertaining to a utility customer. You inform us that none of the exceptions in section 182.054 applies to the submitted information. Therefore, if, prior to the date the board received the request for information, the utility customer elected to keep confidential her address, her telephone number, her social security number, information relating to the volume or units of the customer’s utility usage, and the amounts billed to or collected from the customer for utility usage, these categories of information in the submitted documents are confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code. *See id.* §§ 182.051(4), 182.052; Open Records Decision No. 625 (1994) (construing statutory predecessor). If the customer did not elect to keep these categories of information confidential prior to the date the board received the request for information, then the board may not withhold this information under section 552.101 in conjunction with section 182.054. To the extent these categories of information are not excepted under section 552.101, we must address whether they are otherwise excepted under the Act.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the board must withhold the customer’s social security number in the submitted information under section 552.147.²

We note that the remaining information contains the Texas driver’s license number of the customer. Section 552.130 of the Government Code provides that a motor vehicle operator’s, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). The board must withhold the Texas driver’s license number of the customer in the submitted documents under section 552.130.

We also note that the remaining information contains the customer’s account number. Section 552.136(b) of the Government Code states that “[n]otwithstanding 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

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

Code § 552.136. The board must withhold the customer's account number in the submitted information under section 552.136.

To conclude, if, prior to the date the board received the request for information, the utility customer elected to keep confidential her address, her telephone number, her social security number, information relating to the volume or units of the customer's utility usage, and the amounts billed to or collected from the customer for utility usage, then these categories of information in the submitted documents are confidential under section 182.052 of the Utilities Code, and the board must them under section 552.101 of the Government Code. To the extent the customer's social security number is not confidential under section 182.052, the board must withhold it under section 552.147. The board must also withhold the driver's license number of the customer under section 552.130 and account number under section 552.136. The board must release the remaining submitted 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/sdk

Ref: ID# 238561

Enc. Submitted documents

c: Mr. Christopher Lee Phillippe
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(w/o enclosures)