



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2006

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

OR2006-01740

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# 242738.

The Brownsville Public Utilities Board ("BPUB"), which you represent, received a request for information relating to non-sufficient-funds checks that have been written to BPUB. You have submitted information that you claim is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.¹ We also have considered the correspondence that we received from an attorney for the requestor. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 182.052 of the Utilities Code, which 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

¹This letter ruling assumes that the submitted "sampling of the requested information" is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes BPUB to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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. *See id.* § 182.051(4). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition under section 182.052. *See id.* § 182.054. You inform us that the requestor does not fall under any of the exceptions specified by section 182.054.

In this instance, the submitted documents contain the addresses of customers of BPUB and customer billing information. We note, however, that most of the submitted information relates to a corporate customer. Section 182.052 is applicable only to information that relates 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).* Therefore, none of the information that relates to the corporate entity is confidential under section 182.052 of the Utilities Code, and BPUB may not withhold any of that information under section 552.101 of the Government Code. You indicate that the remaining information relates to individual customers who timely requested confidentiality for their personal and billing information. Based on your representation, we have marked customer addresses that BPUB must withhold under section 552.101 in conjunction with section 182.052.² With respect to these customers' billing information, however, you have not informed us whether BPUB's primary source of water is a sole-source designated aquifer. Therefore, we must rule in the alternative. Thus, if BPUB's primary source of water is not a sole-source designated aquifer, then the customer billing information that we have marked must also be withheld under section 552.101 in conjunction with section 182.052. But if BPUB's primary source of water is a sole-source designated aquifer, then BPUB has discretion to release the marked billing information, notwithstanding the customers' requests for confidentiality. In any event, BPUB must release the rest of the submitted information, including all of the information that relates to the corporate entity.

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

²We note that the submitted documents do not contain any other "personal information," as defined by section 182.051(4).

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).

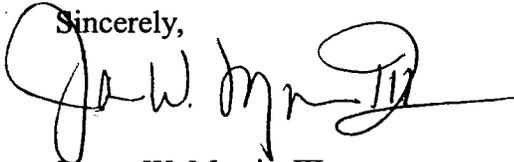
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "M".

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

JWM/sdk

Ref: ID# 242738

Enc: Submitted documents

c: Mr. Jeff Raymond
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