



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 2, 2007

Mr. Jesus Toscano  
Administrative Assistant City Attorney  
City of Dallas  
1500 Marilla Street, Room 7BN  
Dallas, Texas 75201

OR2007-08394

Dear Mr. Toscano:

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# 282495.

The City of Dallas (the "city") received a request for the property address, zip code, and date of removal pertaining to residential properties where the water meter has been removed. You state that, upon payment, you will release some information to the requestor. You claim that the remaining requested information is 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.<sup>1</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides in relevant part as follows:

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<sup>1</sup>We assume that the 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.

(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). We note that the customer's name is not included in the definition of personal information, and therefore is 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).

The submitted information includes a customer's personal information. If this customer elected to keep his personal information confidential prior to the city's receipt of the instant request, his address is confidential under section 182.052(a) and must be withheld under section 552.101 on that basis. If the customer did not timely request confidentiality for this information, such information is not confidential under section 182.052(a) and may not be withheld on that basis.

You inform this office that the submitted information relates to a residential customer whose water meter has been removed and who has requested that the city keep his account information confidential. However, you do not inform this office whether, prior to the city's receipt of the instant request, the customer at issue elected to keep his utility usage information confidential under section 182.052(a) of the Utilities Code. We note that section 182.052(a) provides that the utility may disclose a customer's utility usage information, notwithstanding the customer's request for confidentiality, if the primary source of water for such utility is a sole-source designated aquifer. We are unable to determine from the information provided whether the primary source of water for the city is a sole-source designated aquifer. Therefore, if the primary source of water for the city is not a sole-source designated aquifer, provided that the customer at issue made a timely request for confidentiality, his utility usage information is confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 on that basis. *See* ORD 625. If, however, the primary source of water is a sole-source aquifer, the city has the discretion to

release the utility usage information, notwithstanding the customer's timely request for confidentiality.

Section 552.136 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 Code § 552.136. An access device number is one that 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." *Id.* The city must withhold the account number we have marked.

In summary, provided that the customer at issue made a timely request for confidentiality, the city must withhold the following information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code: (1) the utility usage information provided the primary source of water for the city is not a sole-source designated aquifer and (2) the customer's personal information. The city also must withhold the information we have marked under section 552.136 of the Government Code. The remaining 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,

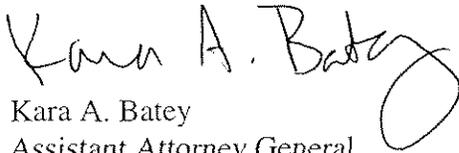
toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,

  
Kara A. Batey  
Assistant Attorney General  
Open Records Division

KAB/eeg

Ref: ID# 282495

Enc. Submitted documents

c: Mr. Jim Livingstone  
P.O. Box 117832  
Carrollton, Texas 75011  
(w/o enclosures)