



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 10, 2008

Mr. John Knight
Deputy City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR2008-00564

Dear Mr. Knight:

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# 299316.

The City of Denton (the "city") received a request for wastewater collection work orders, time sheets, and dispatch logs "back to March 2007." You state that you have released most of the requested information to the requestor, but claim that some of the submitted information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 exempts 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 the following:

- (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.

Until. Code § 182.052(a)-(b). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See id.* § 182.054. You have provided no information to allow us to conclude that any of these exceptions apply in this case. Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). “Personal information” under section 182.052(a) of the Utilities Code means an individual’s address, telephone number, or social security number. *Id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). 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. A customer’s request for confidentiality must precede the utility’s receipt of the request for information. ORD 625 at 6. Lastly, section 182.052 protects the personal information of natural persons only and not of artificial entities such as corporations, partnerships, or other business associations. *Id.* at 3-4.

You inform us that the information at issue pertains to customers who have requested that such information be kept confidential. However, you do not inform us whether these customers did so prior to the city’s receipt of this request for information. Likewise, you do not indicate whether the city’s primary source of water is a sole-source designated aquifer. Nevertheless, if the city’s primary source of water is not a sole-source designated aquifer and if the customers at issue requested confidentiality under section 182.052(b) before the city received the request for information, we agree the city must withhold the highlighted addresses and telephone numbers pursuant to section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the city’s primary source of water is a sole-source designated aquifer, then the city has discretion to release the information at issue, notwithstanding the customers’ requests for confidentiality. We note, however, that some of the addresses and telephone numbers at issue appear to belong to businesses and not natural persons. The city may not withhold the addresses or telephone numbers of any businesses. The city must release the remaining information, including all customer names, 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

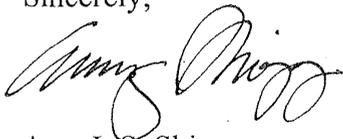
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/mcf

Ref: ID# 299316

Enc. Submitted documents

c: Mr. Clay Lisby
170 North FM 730 #13 Lot
Boyd, Texas 76023
(w/o enclosures)