



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2008

Mr. Miguelangel Matos
Denton, Navarro, Rocha & Bernal
2517 North Main Avenue
San Antonio, Texas 78212

OR2008-02347

Dear Mr. Matos:

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# 302668.

The City of Jourdanton (the "city"), which you represent, received a request for a fax that authorized the city to shut off water services and a copy of a water bill. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 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.

Util. Code § 182.052(a)-(b). "Personal information" under section 182.052(a) of the Utilities Code means an individual's address, telephone number, and 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. 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 the disclosure prohibition found in section 182.052. *See id.* § 182.054.

You state and have provided documentation showing that the customer whose information is at issue timely requested confidentiality for his personal information under section 182.052. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. Therefore, the customer's address and social security number, which we have marked, are confidential under section 182.052.¹

However, you do not indicate whether the customer timely requested confidentiality regarding his usage or billing information. In addition, you do not state whether the primary source of water for the city's utility services is a sole-source designated aquifer. As a result, if the city's primary source of water is not a sole-source designated aquifer, and the customer has timely elected to keep his billing and usage information confidential, the city must withhold the billing and usage information we have marked pursuant to section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the customer did not timely request to keep the billing and usage information confidential, the city may not withhold this information. Alternatively, 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 customer's request for confidentiality.

Next, you raise section 552.130 of the Government Code. This section excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." *See Gov't Code* § 552.130. The city must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Finally you seek to withhold the customer's account number under section 552.136 of the Government Code. This section 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(b). The city must withhold the utility account number we have marked under section 552.136 of the Government Code.

In summary, the customer's personal information is confidential under 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 not a sole-source designated aquifer, and the customer timely requested to keep the billing and usage information confidential, the marked billing and usage information is confidential under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must withhold the marked driver's license under section 552.130 of the Government Code. The city must withhold the marked account number under section 552.136 of the Government Code. The remaining information must be released.

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,

A handwritten signature in black ink, appearing to read 'Chris Schulz', with a long horizontal line extending to the right.

Chris Schulz
Assistant Attorney General
Open Records Division

CS/jb

Ref: ID# 302668

Enc. Submitted documents

c: Ms. Nicole Pendergrass
402 Cedar Street
Jourdanton, Texas 78026-2700
(w/o enclosures)