



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 29, 2008

Ms. Melissa A. Bunch
City Secretary
City of Katy
P.O. Box 617
Katy, Texas 77492-0617

OR2008-11912

Dear Ms. Bunch:

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# 320758.

The City of Katy (the "city") received a request for water records for a specified address from January 1, 2006 to June 10, 2008, to specifically include water billing dates, dates and times water was connected, inspections, and other related information. You state the city has released some of the requested information to the requestor. You claim portions of the remaining information are excepted 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 of the Government Code 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 pertinent part as follows:

- (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). 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) means an individual’s address, telephone number, and social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 at 2 (1994) (construing statutory predecessor). We note 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 city’s receipt of the request for information. ORD 625 at 6.

Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See* Util. Code § 182.054. It does not appear that any of these exceptions apply in this case. You state, and provide documentation showing, one of the customers timely requested confidentiality under section 182.052. You do not indicate, however, 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, the city must withhold the customer’s address, telephone numbers, social security number, information relating to the volume or units of utility usage, and the amounts billed to or collected for utility usage under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. However, none of the remaining information pertaining to this customer, including the water billing dates and the dates and times of connection, may be withheld under section 552.101 on this basis. If the city’s primary source of water is a sole-source designated aquifer, the city has the discretion to release information relating to the volume or units of utility usage and the amounts billed to or collected for utility usage.

We note that section 182.052 protects the personal information of natural persons only and not of artificial entities such as corporations, partnerships, or other business associations. *See* ORD 625 at 3-4. Thus, none of the information that relates to Franklin Bank’s water records is confidential under section 182.052 of the Utilities Code, and the city may not withhold any of this information under section 552.101 of the Government Code.

We also note the remaining submitted information contains information protected by section 552.130 of the Government Code, which 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[.]” Gov’t Code § 552.130(a)(1). Accordingly, the city must withhold the Texas driver’s license number and expiration date we have marked under section 552.130 of the Government Code.

The remaining submitted information also contains customer account numbers. 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.” *Id.* § 552.136(b). 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, and includes an account number. *Id.* § 552.136(a). Accordingly, the city must withhold the account numbers we have marked under section 552.136 of the Government Code.¹

In summary, for the customer who is a natural person and who timely elected confidentiality, the city must withhold the customer’s address, telephone numbers, social security number, information relating to the volume or units of utility usage, and the amounts billed to or collected for utility usage, 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. If the city’s primary source of water is a sole-source designated aquifer, the city has the discretion to release information for this customer relating to the volume or units of utility usage and the amounts billed to or collected for utility usage. The city must also withhold (1) the Texas driver’s license number and expiration date we have marked under section 552.130 of the Government Code and (2) the account numbers we have marked under section 552.136 of the Government Code. The remaining responsive 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). If the governmental body does not file suit over 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

¹The other account numbers on the submitted fax cover sheet are not responsive to this request because they relate to other properties. This ruling does not address these account numbers and the city need not release nonresponsive information.

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,



Katherine M. Kroll
Assistant Attorney General
Open Records Division

KMK/eeg

Ref: ID# 320758

Enc. Submitted documents

c: Mr. John P. Cahill, Jr.
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(w/o enclosures)