



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 26, 2009

Mr. Mark H. Zeppa  
Law Offices of Mark H. Zeppa, P.C.  
Attorney for Holiday Beach Water Supply Corporation  
4833 Spicewood Springs Road, Suite 202  
Austin, Texas 78759-8436

OR2009-08825

Dear Mr. Zeppa:

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# 347366.

The Holiday Beach Water Supply Corporation (the "corporation"), which you represent, received a request for an electronic copy of the corporation's customer billing list. You claim that the 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 information. We have also considered comments submitted by the requestor. Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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 corporation's receipt of the request for information. ORD 625 at 6.

In this instance, you state that the corporation's tariff provides customers with "an expectation that their confidential information will not be released[.]" However, section 182.052 requires that a customer request confidentiality. In addition, the corporation's tariff provides that a customer may "request in writing" that their personal information be kept confidential. The corporation has also provided this office with a form that customers may use to request confidentiality. As stated above, any request for confidentiality must precede the corporation's receipt of a request for information. Accordingly, the corporation must withhold customers' personal information under section 552.101 in conjunction with section 182.052 of the Utilities Code only if the corporation timely received a request for confidentiality. However, if customers did not timely elect to keep their personal information confidential, none of the requested information may be withheld under section 552.101 in conjunction with section 182.052 of the Utilities Code.

We note that the requested information contains customer account numbers. Section 552.136(b) of the Government Code provides 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."<sup>1</sup> Upon review, we find that the submitted customer account numbers are access device numbers for purposes of section 552.136. Accordingly, we have marked these numbers that must be withheld under section 552.136 of the Government Code.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the corporation must withhold customers' personal information under section 552.101 in conjunction with section 182.052 of the Utilities Code if the corporation timely received a request for confidentiality. In addition, the corporation must withhold the customer account numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/rl

Ref: ID# 347366

Enc. Submitted documents

c: Requestor  
(w/o enclosures)