



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2009

Mr. Burk Roberts  
Roberts & Roberts, L.L.P.  
2501 East Elms Road, Suite A  
Killeen, Texas 76542-3019

OR2009-11653

Dear Mr. Roberts:

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# 352771.

The City of Harker Heights (the "city"), which you represent, received a request for the history of services at a specified address over a specified time period. You state the city has released some of the requested information. You claim that the submitted 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.

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 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, and you acknowledge, that a customer's name is not included in the definition of personal information, and therefore is not confidential under section 182.052. 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 that the customers whose information is at issue timely requested confidentiality for their 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 information we have marked is confidential under section 182.052 of the Utilities Code and must be withheld under section 552.101 of the Government Code. However, the remaining information does not constitute personal information or information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage. Thus, the city may not withhold any of the remaining information under section 552.101 in conjunction with section 182.052.

We note the remaining information contains utility account numbers excepted from disclosure under section 552.136 of the Government Code.<sup>1</sup> Section 552.136 states "[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, which we have marked, under section 552.136 of the Government Code.

In summary, (1) the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code; and (2) the city must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released to the requestor.

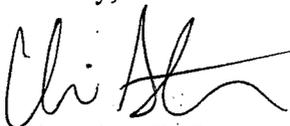
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 352771

Enc. Submitted documents

c: Requestor  
(w/o enclosures)