



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 2, 2009

Mr. Clark McCoy
Wolfe, Tidwell & McCoy, LLP
Attorneys for City of Aubrey
2591 Dallas Parkway, Suite 205
Frisco, Texas 75034

OR2009-17060

Dear Mr. McCoy:

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# 362887.

The City of Aubrey (the "city"), which you represent, received a request for information pertaining to certain city water utility accounts.¹ You state the city has redacted social security numbers pursuant to section 552.147 of the Government Code.² You also state the city is releasing some of the responsive information. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the exceptions 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

¹The city also received a subpoena for this information. Section 552.0055 of the Government Code provides that "[a] subpoena duces tecum or a request for discovery that is issued in compliance with a statute or rule of civil procedure or criminal procedure is not considered to be a request for information under this chapter." Gov't Code § 552.0055. Accordingly, this decision addresses only the request for information that the city received and not the city's compliance with the subpoena.

²Section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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) means an individual's address, telephone number, or social security number, but does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). 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 that the information you have marked is that of an individual customer who timely requested confidentiality under section 182.052. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. You state that the primary source of water for the city's utility services is not a sole-source designated aquifer. Based on your representations and our review of the submitted information, we agree that 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. However, the remaining information you seek to withhold does not consist of personal information in a customer's account record, nor information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage; this information is not confidential under section 182.052, and the city may not withhold any portion of it under section 552.101 on that basis.

Section 552.130 of the Government Code 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). Section 552.130 does not apply to out of state motor vehicle record information. To the extent the driver's license number you have marked throughout the remaining information was issued by the State of Texas, the city must withhold it under section 552.130 of the Government Code. If the marked driver's license number was not issued by the State of Texas, it must be released.

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 and personal identification number we have marked, under section 552.136 of the Government Code. However, the remaining information you have marked under that exception does not consist of a credit card, debit card, charge card, or access device number, and it may not be withheld based on section 552.136.

In summary, 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 section 552.136 of the Government Code. To the extent the driver's license number you have marked throughout the remaining information was issued by the State of Texas, the city must withhold it under section 552.130 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, 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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 362887

Enc. Submitted documents

c: Requestor
(w/o enclosures)