



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 6, 2010

Ms. Rebecca Brewer  
Attorney for City of Frisco  
Abernathy, Roeder, Boyd & Joplin, P.C.  
P. O. Box 1210  
McKinney, Texas 75070-1210

OR2010-18281

Dear Ms. Brewer:

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# 402930.

The City of Frisco (the "city"), which you represent, received a request for the "Water Utility bill of [a named individual] for any period in 2010." You claim 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.

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 exception encompasses information that other statutes make confidential, such as section 182.052 of the Utilities Code, which provides in 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) 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). Water, sewer, garbage collection, and electricity services are 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 provide documentation showing, the named individual timely requested confidentiality of his information under section 182.052. We also understand none of the exceptions to confidentiality under section 182.054 applies in this instance. You do not inform us, however, whether the city's primary source of water is a sole-source designated aquifer. Accordingly, if the city's primary source of water is not a sole-source designated aquifer, then the city must withhold the submitted information relating to the volume or units of utility usage and the amounts billed to or collected from the individual for utility usage under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.<sup>1</sup> If the city's primary source of water is a sole-source designated aquifer, then the city has discretion to release the customer's usage information, notwithstanding the customer's requests for confidentiality. The remaining information does not contain personal information in a customer's account record; therefore, the remaining information is not confidential under section 182.052, and the city may not withhold it under section 552.101 on that ground.

The remaining information includes the individual's account number. Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of [the Act], 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>2</sup> Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). The utility account number constitutes an access device number for the purposes of section 552.136. Thus, the city must withhold the account number we have marked under section 552.136.

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<sup>1</sup>We note the submitted information does not contain the named individual's address, telephone number, or social security number. *See* Util. Code § 182.051(4).

<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

In summary, the city must withhold the 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 Utility Code if the city's primary source of water is not a sole-source designated aquifer. The city has discretion to release the customer's usage information pursuant to section 182.052 if the city's primary source of water is a sole-source designated aquifer. The city must also withhold the marked account number under section 552.136 of the Government Code. The city must release the remaining information.

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, toll free, at (888) 672-6787.

Sincerely,

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James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/vb

Ref: ID# 402930

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)