



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2011

Ms. Jenny Page  
City Secretary  
City of Frisco  
6101 Frisco Square Boulevard, 5<sup>TH</sup> Floor  
Frisco, Texas 75034

OR2011-00343

Dear Ms. Page:

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# 405083.

The City of Frisco (the "city") received a request for information pertaining to the utility bills for a specified address. 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 representative sample of information.<sup>1</sup>

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

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<sup>1</sup>We understand you to have submitted a representative sample of the responsive information. We assume the records submitted to this office are truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 customer at issue timely requested confidentiality of his information under section 182.052. In this instance, there is no indication any of the exceptions listed in section 182.054 apply. You do not inform us 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 information we have marked 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 a sole-source designated aquifer, then the city has discretion to release the marked information, notwithstanding the customer's request for confidentiality. The remaining information does not constitute personal information, information relating to volume or units of utility usage, or the amounts billed to or collected from an individual for utility usage. Accordingly, none of the remaining information is subject to section 182.052, and the city may not withhold it under section 552.101 on that basis.

We note the remaining information includes a utility 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). 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

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

by paper instrument.” *Id.* § 552.136(a). Upon review, we find 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.

In summary, if the city’s primary source of water is not a sole-source designated aquifer, then the city must withhold the marked information 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 a sole-source designated aquifer, the city has discretion to release the marked information pursuant to section 182.052 of the Utility Code. The city must withhold the marked account number 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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 405083

Enc. Submitted documents

c: Requestor  
(w/o enclosures)