



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 14, 2011

Mr. Randolph Kimble Wittington  
Attorney at Law  
2014 East Harrison Avenue  
Harlingen, Texas 78550

OR2011-05196

Dear Mr. Wittington:

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# 414576.

The Hidalgo County Water Improvement District No. 3 (the "district"), which you represent, received a request for (1) a list of the district's current raw water customers, (2) records indicating the volume of raw water supplied to raw water customers annually for the last five years, (3) records reflecting the district's plan to treat and/or sell potable water on a retail or wholesale basis, (4) each disclosure required by law completed in the last four years by or for any district employee or governing board member, (5) audio recordings of governing board meetings during 2010, (6) video recordings of governing board meetings during 2010, (7) communications with Texas agencies pertaining to a water treatment plant for purposes of creating potable water, and (8) a listing of certificates of deposit held on certain dates. We understand the district has released some information responsive to item eight of the request. Although you take no position on whether the requested information is excepted from disclosure, you state release of the submitted information may implicate the privacy interests of the customers whose information is at issue. Accordingly, you notified these individuals of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from one raw water customer. We have considered the submitted comments and reviewed the submitted representative sample of information.

Initially, we note you have only submitted information responsive to items one and two of the request. Although we understand the district released some information responsive to item eight of the request, you do not inform us whether any information responsive to the remaining items of the request has been released. You state the district submitted a representative sample of information; however, no portion of the submitted representative sample pertains to potable water, disclosures, or board meetings. Thus, we find the submitted information is not representative of the information sought in the remaining items of the request. Please be advised this open records letter applies to only the types of information you have submitted for our review. Therefore, this opinion does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See id.* § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). To the extent information responsive to the remaining items of the request existed when the request was received, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

The raw water customer asserts the requested information is proprietary and private. Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex.1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. Common-law privacy protects the types of information that are held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). We note the names, addresses, and telephone numbers of members of the public are not excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 551 at 3 (1990) (disclosure of person's name, address, or telephone number not an invasion of privacy), 455 at 7 (1987) (home addresses and telephone numbers not protected under privacy). Upon review, we conclude the submitted information is not highly intimate or embarrassing. Thus, the district may not withhold any of the submitted information under section 552.101 in conjunction with common-law privacy. As no other exceptions against disclosure of the submitted information are raised, it 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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 414576

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)