



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 3, 2011

Mr. Richard Hamala  
Tiemann, Shahady & Hamala, P.C.  
For Liberty Hill Water Supply Corporation  
102 North Railroad Avenue  
Pflugerville, Texas 78660

OR2011-07850

Dear Mr. Hamala:

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# 419467.

The Liberty Hill Water Supply Corporation ("LHWSC"), which you represent, received a request for a 2010 audit report and summary, as well as a list of current past due accounts, including specified information. You state LHWSC provided the requested audit report and summary to the requestor. You claim portions of the submitted past due account records are excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you acknowledge the requestor has specifically excluded from her request all addresses, telephone numbers, social security numbers, and account numbers. Thus, any such information is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.<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

---

<sup>1</sup>As our ruling for this information is dispositive, we need not address your arguments under section 552.136 of the Government Code or parts of your arguments under section 552.101 of the Government Code.

Code § 552.101. This exception encompasses information other statutes make confidential, such as section 182.052 of the Utilities Code, which provides, in relevant part:

(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.

(c) A government-operated utility shall include with a bill sent to each customer:

...

(3) a form by which the customer may request confidentiality by marking an appropriate box on the form and returning it to the government-operated utility.

Util. Code § 182.052(a), (b), (c)(3). "Personal information" under section 182.052(a) means an individual's address, telephone number, and 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. *Id.* § 182.051(3).

Section 182.052(b) provides the means by which a customer may request confidentiality for his or her personal information, certain utility usage information, and information relating to the amounts billed to or collected from the customer for utility usage. *See id.* § 182.052(a), (b). You state some of the customers whose past due account information is at issue requested confidentiality for their personal information prior to the date LHWSC received the request for information. You have provided those customers' confidentiality election forms for our review. You acknowledge the forms permit the customers to request confidentiality for only their addresses, telephone numbers, and social security numbers, and do not provide means for the customers to request confidentiality for their utility usage, billing amount, or payment amount information. Nonetheless, you seek to withhold those customers' billing amount and payment amount information in the submitted records. We

find, however, that because those customers did not request confidentiality for their billing amount and payment amount information, LHWSC may not withhold that information under section 182.052(a) of the Utilities Code. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

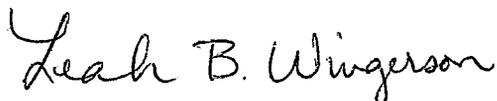
Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found information that reflects only an individual's personal financial decisions is generally highly intimate or embarrassing, but there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision Nos. 600 (1992), 545 (1990) (finding financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy), 523 (1989).

You seek to withhold the customers' names, past due amounts, and account balance amounts in the submitted records under common-law privacy because you argue that information "concern[s] each [customer's] private financial affairs." You further argue LHWSC is a non-profit organization that "is not inherently a governmental entity, and its funds . . . are not governmental funds that are of [legitimate] concern to the public." You acknowledge, however, LHWSC is a governmental body for purposes of the Act. *See* Gov't Code § 552.003(1)(A)(ix) (stating "governmental body" means the governing body of a nonprofit corporation organized under chapter 67 of the Water Code that provides a water supply or wastewater service and is exempt from ad valorem taxation). Thus, we find LHWSC is a governmental body for purposes of financial privacy. In this instance, the past due amounts and account balance amounts at issue pertain to monetary amounts owed to LHWSC by its customers. Therefore, we find that information does not pertain solely to the customers' personal financial decisions, but rather, the information involves financial transactions between the customers and a governmental body. Consequently, there is a legitimate public interest in the past due amounts and account balance amounts at issue. *See* ORD 545. Furthermore, this office has determined an individual's name is generally not private information. *See* Open Records Decision No. 554 at 3 (1990) (stating disclosure of person's name not invasion of privacy). Thus, you have failed to demonstrate the applicability of common-law privacy to the customers' names, past due amounts, and account balance amounts in the submitted records. Consequently, LHWSC may not withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. Therefore, LHWSC must release the submitted responsive 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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 419467

Enc. Submitted documents

c: Requestor  
(w/o enclosures)