



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 10, 2011

Mr. Leonard V. Schneider
Liles Parker PLLC
525 E. Sam Houston Parkway N., Suite 415
Houston, Texas 77060

OR2011-08289

Dear Mr. Schneider:

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# 420487.

The City of Huntsville (the "city"), which you represent, received a request for the total water consumption for a specified address during a specified time period. You claim portions of the submitted information 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, we note the request seeks only the total water consumption for the specified address during a specified time period. Accordingly, any submitted information that does not consist of the water consumption for the specified address during a specified time period is not responsive to the instant request. This ruling does not address the public availability of the non-responsive information, and that information need not be released in response to the present request.¹

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

¹As our determination that the submitted account numbers are not responsive is dispositive, we need not address your argument under section 552.136 of the Government Code.

Code § 552.101. This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code 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).

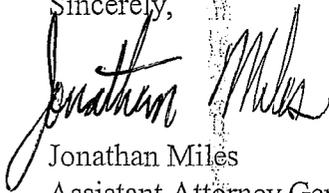
Section 182.052(b) provides the means by which a customer may request confidentiality for his or her personal information, certain utility usage information, and information relating to the amounts billed to or collected from the customer for utility usage. *See id.* § 182.052(a), (b). You state the customer whose water usage information is at issue requested confidentiality for her personal information prior to the date the city's utility received the request for information. You have provided this customer's confidentiality election form for our review. We note the submitted form permits the customer to request confidentiality for only her personal information and does not provide means for the customer to request confidentiality for utility usage, billing amount, or payment amount information. Nonetheless, you seek to withhold the customer's utility usage information in the submitted record. We find, however, that because this customer did not request

confidentiality for her utility usage information, the city 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). Accordingly, the responsive 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 420487

Enc. Submitted documents

c: Requestor
(w/o enclosures)