



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2011

Mr. George Staples
Counsel for the City of North Richland Hills
Taylor Olson Adkins Sralla Elam LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2011-10534

Dear Mr. Staples:

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# 424681.

The City of North Richland Hills (the "city"), which you represent, received a request for information revealing the identity of the water utility customer for a specified address. You claim the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions 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 section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides in relevant 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, or 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 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See id.* § 182.054.

In this instance, there is no indication that any of the exceptions listed in section 182.054 are applicable. We understand that the primary source of water for the city’s utility services is not a sole-source designated aquifer. The submitted information reflects the individual whose information is at issue requested confidentiality for his personal information under section 182.052. Based on your representations and our review, we conclude the city must withhold the personal information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.¹

Section 552.130 provides that “[i]nformation is excepted from the requirements of [the Act] if the information relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country[.]” Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov’t Code § 552.130(a)(1)). The city must withhold the driver’s license number we marked in the remaining information under section 552.130 of the Government Code.

Finally, section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).² *See* Gov’t Code § 552.137(a)-(c). The personal e-mail address we marked in the remaining information is not subject to subsection (c). Thus, the city must withhold the marked e-mail address under section 552.137 of the Government Code, unless its owner consents to its release.

¹As we are able to make this determination, we need not address your argument under section 552.147 of the Government Code for the social security number in the submitted information.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must also withhold the driver's license number we marked in the submitted information under section 552.130 of the Government Code and the e-mail address we marked under section 552.137 of the Government Code, unless its owner consents to its release.³ 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, 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eb

Ref: ID# 424681

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including Texas a driver's license number under section 552.130 of the Government Code and an e-mail address of a member of the public under section 552.137 of the Government Code.