



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 12, 2011

Ms. Traci S. Briggs
Deputy City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2011-13136

Dear Ms. Briggs:

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# 429787 (Ref. No. W005829-062311).

The City of Killeen (the "city") received a request for records concerning a specified credit card transaction. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. Section 552.101 encompasses information that other statutes make confidential, such as section 182.052 of the Utilities Code. This section provides, in 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.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. *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. *See* 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 raise section 182.052 for a water utility customer’s address and consumption and billing information. You do not indicate that any of the exceptions to confidentiality under section 182.054 apply in this instance. You state the primary source of water for the city’s utility services is not a sole-source designated aquifer. Further, you inform us, and provide the city’s election form which reflects, the customer timely requested confidentiality under section 182.052. We note, however, the city’s election form permits an individual to request confidentiality only for her or his “personal information” and does not provide a means for the individual to request confidentiality for her or his consumption and billing information. Although you seek to withhold the customer’s consumption and billing information, we find that because the customer did not request confidentiality for this information, the city may not withhold it on that basis. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection). However, based on your representations and our review, we find the city must withhold the customer’s address, which we have marked. under section 552.101 of the Government Code in conjunction with section 182.052(a).

We note the remaining information contains a utility account number and a partial credit card number. Section 552.136 of the Government Code provides “[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.”¹ 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 by paper instrument, and includes an account number. *See id.* § 552.136(a). Upon review, we find the utility account number, which we have marked, constitutes an access device number for purposes of section 552.136. Thus, the city must withhold this information under section 552.136. However, the partial credit card number may belong to the requestor. We note that section 552.136 protects personal privacy. Thus, the requestor may have a right of access to the partial credit card number under section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

body to provide her with information concerning herself). Accordingly, if the partial credit card number we have marked belongs to the requestor, the city must release this information to the requestor. Otherwise, the city must withhold this information under section 552.136.²

In summary, the city must withhold the address we marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The city must withhold the utility account number we marked under section 552.136 of the Government Code. If the partial credit card number we marked belongs to the requestor, the city must release this information to the requestor. Otherwise, this information must be withheld 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 429787

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a credit card number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.