



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 6, 2011

Mr. John Ohnemiller  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2011-13647

Dear Mr. Ohnemiller:

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# 432270.

The City of Midland (the "city") received a request for information pertaining to city residents who used the most city water during a specified time period, including names, addresses, gallons consumed, and amounts billed. You state the city has released some of the requested information. You claim some of the submitted information is 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 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 as follows:

- (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). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). "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). However, because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable only to information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See* ORD 625 at 4-5 (in context of section 182.051(4) of the Utility Code, "individual" means only natural persons and does not include artificial entities). In addition, we note the names of customers are not included in the definition of personal information, and therefore are not confidential under section 182.052 of the Utilities Code.

You inform us the city is not a sole-source designated aquifer. You state the information you have highlighted within the submitted documents relates to customers who have requested their accounts be kept confidential. However, some of the customers you have highlighted are commercial entities. Thus, to the extent the highlighted information pertains to commercial entities, it is not confidential pursuant section 182.052, and may not be withheld under section 552.101 on that basis. Further, with respect to the highlighted information pertaining to natural persons, you do not inform us whether the customers at issue elected confidentiality for their accounts prior to the city's receipt of this request for information. *See* ORD 625 at 7. Nevertheless, to the extent the highlighted information pertains to natural persons who timely requested confidentiality for their account information, the city must withhold those individuals' personal and usage information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. However, to the extent the individuals at issue did not timely request confidentiality, their personal and usage information may not be withheld under section 552.101 in conjunction with section 182.052 and it must be released.

In summary, to the extent the highlighted information pertains to natural persons who timely requested confidentiality for their account information, the city must withhold those individuals' personal and usage information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The remaining submitted information, including all customer names, 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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/agn

Ref: ID# 432270

Enc. Submitted documents

c: Requestor  
(w/o enclosures)