



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 27, 2011

Ms. Andrea M. Gardner
City Manager
City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 76522

OR2011-15790

Dear Ms. Gardner:

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# 435819.

The City of Copperas Cove (the "city") received a request for information pertaining to the "top nine water users." You claim some of the requested 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 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, such as section 182.052 of the Utilities Code, which 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.

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) is defined as “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. Util. Code § 182.051(3).

Section 182.052(b) provides the means by which a customer may request confidentiality for the customer’s 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). We understand you to assert the submitted account numbers, names, addresses, and water consumption amounts of two customers are confidential under section 182.052. Section 182.052 does not make confidential the names and account numbers of customers. *See id.* §§ 182.051(4), 182.052(a). Thus, the city may not withhold the submitted names and account numbers on that ground. You have submitted the election forms of two customers who elected to keep their “personal information” confidential, and these election forms were provided to the city before it received the request for information. Therefore, the city must withhold the submitted addresses of these two customers, which we have marked, under section 552.101 in conjunction with section 182.052. *See id.* § 182.041(4). However, the submitted election forms do not provide a means for a customer to request confidentiality for the customer’s consumption information. Accordingly, because the customers did not request confidentiality for their consumption information, the city may not withhold the consumption information on that basis. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection).

The submitted account numbers are excepted from disclosure under section 552.136 of the Government Code.¹ Section 552.136(b) provides that “[n]otwithstanding any other provision

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

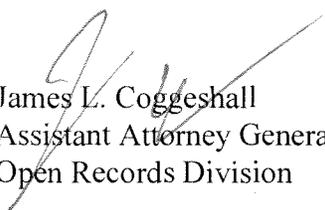
of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Thus, the city must withhold the account numbers we have marked under section 552.136.

To conclude, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code and under section 552.136 of the Government Code. The city must release the remaining 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 435819

Enc. Submitted documents

c: Requestor
(w/o enclosures)