



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 4, 2011

Mr. Anthony S. Corbett  
For the Chisholm Trail Special Utility District  
Freeman & Corbett  
8500 Bluffstone Cove, Suite B-104  
Austin, Texas 78759

OR2011-16273

Dear Mr. Corbett:

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# 435334.

The Chisholm Trail Special Utility District (the "district"), which you represent, received a request for (1) names and addresses of the district's board of directors (the "board members"), (2) names and addresses of the district's owners and investors, (3) compensation paid to the board members during the past five years, (4) water usage information of the board members during the past five years, (5) the justification for raising the water meter tap fees, (6) water line breaks in three specified subdivisions during the past five years, (7) dates and times when the district called residents of the three specified subdivisions about water line breaks, and (8) results of water quality testing. You state the district will release some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 made confidential by other statutes, such as section 182.052 of the Utilities Code, which 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.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) includes an individual’s address, 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 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See id.* § 182.054.

In this instance, we understand none of the exceptions listed in section 182.054 are applicable to the submitted information. You state, and have submitted documentation showing, some of the board members have timely requested confidentiality under section 182.052 for their personal information and water usage information. However, we are unable to determine whether the district’s primary source of water is a sole-source designated aquifer. Accordingly, we must rule in the alternative. If the primary source of water for the district is not a sole source designated aquifer, then the district must withhold the types of water usage information we have marked for board members who timely made a written request for confidentiality for those types of information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Conversely, if the primary source of water is a sole-source aquifer and the board members at issue timely elected confidentiality for their water usage information, then the district has the discretion to release water usage information, notwithstanding the board members’ requests for confidentiality. Finally, in either circumstance, to the extent the board members timely elected confidentiality for their personal information under section 182.052, the district must withhold the board members’ personal information under section 552.101 in conjunction with section 182.052. However, in either case, if the board members did not timely elect

confidentiality for their personal or water usage information, then the district may not withhold that information under section 552.101 in conjunction with section 182.052. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made).

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov't Code § 552.117(a)). We note section 552.117 applies only to information held by a governmental body in an employment context or in an official capacity. Thus, information that is not held in an employment context or in an official capacity may not be withheld under section 552.117(a)(1). Upon review, we find no part of the submitted information consists of the home address and telephone number, emergency contact information, social security number, and family member information of the board members that is held in an employment context or in an official capacity. Therefore, the district may not withhold any of the remaining information under section 552.117(a)(1) of the Government Code.

The submitted documents also include information that is subject to section 552.136 of the Government Code.<sup>2</sup> Section 552.136 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.” Gov’t Code § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, the district must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, if the primary source of water for the district is not a sole source designated aquifer, then the district must withhold the types of water usage information we have marked for board members who timely made a written request for confidentiality for those types of information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. Conversely, if the primary source of water is a sole-aquifer and the board members at issue timely elected confidentiality for their water usage information, then the district has the discretion to release water usage information, notwithstanding the board members’ requests for confidentiality. Finally, in either circumstance, to the extent the board members timely elected confidentiality for their personal information under section 182.052, the district must withhold the board members’ personal information under section 552.101 in conjunction with section 182.052. However, in either case, if the board members did not timely elect confidentiality for their personal or

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<sup>2</sup>The 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).

water usage information, then the district may not withhold that information under section 552.101 in conjunction with section 182.052. The district must withhold the account numbers we have marked 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](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# 435334

Enc. Submitted documents

c: Requestor  
(w/o enclosures)