



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2011

Ms. Rebecca Brewer
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2011-17056

Dear Ms. Brewer:

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# 436474 (Frisco PIR # 2011-0710).

The City of Frisco (the "city"), which you represent, received a request for water department records pertaining to a specified account and address. You claim 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 exception encompasses information that other statutes make confidential, such as section 182.052 of the Utilities Code, which provides in 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, and social security number. *Id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). Water, sewer, and garbage collection services are 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.

You state, and provide documentation showing, the customer at issue timely requested confidentiality of his information under section 182.052. In this instance, there is no indication any of the exceptions listed in section 182.054 apply. You do not inform us whether the city’s primary source of water is a sole-source designated aquifer. Accordingly, if the city’s primary source of water is not a sole-source designated aquifer, then the city must withhold the personal information and billing information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the city’s primary source of water is a sole-source designated aquifer, then the city must withhold the marked personal information under section 552.101 in conjunction with section 182.052, but has discretion to release the marked billing information, notwithstanding the customer’s request for confidentiality. The remaining information does not constitute personal information, information relating to volume or units of utility usage, or the amounts billed to or collected from an individual for utility usage. Accordingly, none of the remaining information is subject to section 182.052, and the city may not withhold it under section 552.101 on that basis.

We note some of the remaining information is subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure information that relates to a motor vehicle operator’s license or driver’s license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* 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)-(2)). Upon review, we find the city must withhold the information we have marked under section 552.130 of the Government Code.

We note the remaining information includes a utility account number. Section 552.136 of the Government Code states that “[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). An

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

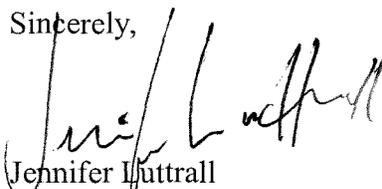
access device number is one that may be used to “(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we find the utility account number constitutes an access device number for the purposes of section 552.136. Thus, the city must withhold the account number we have marked under section 552.136.

In summary, if the city’s primary source of water is not a sole-source designated aquifer, then the city must withhold the marked personal and billing information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the city’s primary source of water is a sole-source designated aquifer, then the city has discretion to release the marked billing information, but still 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. The city must withhold the information we have marked under sections 552.130 and 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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 436474

Enc. Submitted documents

c: Requestor
(w/o enclosures)