



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2011

Mr. Joe Torres, III
City Attorney
City of Alice
216 North Texas Boulevard, Suite 2
Alice, TX 78332

OR2011-18035

Dear Mr. Torres:

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# 438403.

The City of Alice (the "city"), which you represent, received a request for a water bill invoice for a specified address. We understand you to raise section 552.101 of the Government Code as an exception to disclosure.¹ 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

¹While you do not explicitly raise section 552.101 of the Government Code in your brief, based on your arguments, we understand you to assert section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

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).

You seek to withhold the requested invoice record under section 182.052 of the Utilities Code. We understand that the primary source of water for the city's utility services is not a sole-source designated aquifer. You do not indicate any of the exceptions to confidentiality under section 182.054 of the Utilities Code apply in this instance. You provide the city's privacy election form, which reflects the customer timely requested confidentiality under section 182.052 of the Utilities Code. We note, however, the city's election form permits an individual to request confidentiality only for his "personal information" and does not provide a means for the individual to request confidentiality for his consumption and billing information. Although you seek to withhold the customer's invoice record in its entirety, we find that because the customer did not request confidentiality for consumption and billing information, the city may not withhold the portion of the submitted information that relates to consumption and billing. *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 and telephone number, which we have marked, under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code.

We note the remaining information contains a utility account 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."² 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

²The 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).

by paper instrument, and includes an account number. *See id* § 552.136(a). Upon review, we find the 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.

In summary the city must withhold the customer's address and telephone number that 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 account number we have marked 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,

A handwritten signature in cursive script that reads "Jessica Marsh".

Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 438403

Enc. Submitted documents

c: Requestor
(w/o enclosures)