



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2011

Mr. Anthony S. Corbett
Freeman & Corbett
8500 Bluffstone Cove, Suite B-104
Austin, Texas 78759

OR2011-18664

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# 439322.

The Chisholm Trail Special Utility District (the "district"), which you represent, received a request for the names, addresses, and amount of water used per month for the twenty highest district water users for 2010 and 2011; the names and addresses of the district's board members; the amount of water used for each board member in 2010 and 2011; and copies of current "RDA" loan documents. You state you have released some of the requested information pertaining to names, addresses, and amount of water used per month. You claim that portions of the remaining requested information are 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.

Initially, we note you have submitted monthly water usage details and addresses for individuals. You state you have submitted a representative sample of information; however, no portion of the submitted representative sample pertains to the requested loan documents. Thus, we find the submitted information is not representative of all the information sought in the request for information. Please be advised this ruling applies to only the types of information you have submitted for our review. Therefore, this ruling 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. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of

section 552.301, information at issue is presumed public). To the extent any information responsive to the request for loan documents existed on the date the district received the information, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301-.302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible).

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). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3). “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). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. Util. Code § 182.054.

You state the district’s primary source of water is not a sole-source designated aquifer. Additionally, we understand none of the exceptions listed in section 182.054 are applicable to the information at issue. Section 182.052(b) provides the means by which a customer may request confidentiality for his or her 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).

You state, and have submitted a representative sample of documentation showing, some of the individuals have requested confidentiality under section 182.052 for their personal information and water usage information. Accordingly, to the extent the individuals whose

information is at issue timely elected confidentiality for their water usage information under section 182.052, the district must withhold the usage information, of which we have marked a representative sample, under section 552.101 in conjunction with section 182.052. To the extent the individuals whose information is at issue timely elected confidentiality for their personal information under section 182.052, the district must withhold the personal information, of which we have marked a representative sample, under section 552.101 in conjunction with section 182.052. However, if the individuals whose information is at issue 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).

To the extent any of the board members did not timely elect confidentiality for their personal information under section 182.052, we address your argument under section 552.117 of the Government Code. Section 552.117(a)(1) 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. Gov't Code § 552.117(a)(1). We note section 552.117 applies only to information held by a governmental body in an employment context. Thus, information that is not held in an employment context may not be withheld under section 552.117(a)(1). Upon review, we find no part of the submitted information consists of the home addresses, home telephone numbers, emergency contact information, social security numbers, or family member information of the board members that is held in an employment context. Therefore, the district may not withhold any of the information under section 552.117(a)(1) of the Government Code.

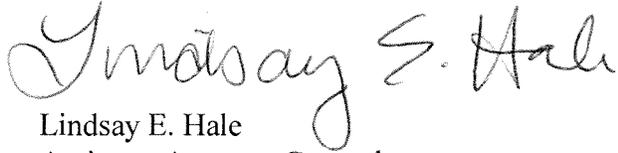
In summary, to the extent the individuals whose information is at issue timely elected confidentiality for their personal and water usage information under section 182.052, the district must withhold the information, of which we have marked a representative sample, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The district 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 black ink that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 439322

Enc. Submitted documents

c: Requestor
(w/o enclosures)