



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 4, 2012

Mr. Benjamin Sampract  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2012-00162

Dear Mr. Sampract:

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# 441125 (PIR# W012111).

The Fort Worth Water Department (the "department") received a request for the billing records for all water utility customers from a specified time period. You state the department has released some of the requested information. You claim the submitted 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. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The department acknowledges, and we agree, it failed to comply with the procedural requirements of section 552.301 of the Government Code. *See id.* § 552.301. Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *see also Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Normally, a compelling reason to withhold information exists where some other source of

law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will consider the applicability of your claimed exception to 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 other statutes make confidential. Section 182.052 of the Utilities Code 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.

Util. Code § 182.052(a). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. *See id.* § 182.051(4). However, we note that section 182.052 only protects the personal information of natural born persons and not of artificial entities such as corporations, partnerships, or other business associations. *See* Open Records Decision No. 625 at 5-6 (1994) (construing statutory predecessor). Water service is included in the scope of utility services encompassed by section 182.052. *See* Util. Code § 182.051(3). Section 182.054 of the Utilities Code provides six exceptions to section 182.052(a)’s prohibition of public disclosure. *See id.* § 182.054.

You inform us that the submitted information pertains to water utility customers who requested confidentiality prior to the department’s receipt of the instant request for information. You do not indicate that any of the exceptions to confidentiality under section 182.054 are applicable in this instance. We understand the department’s primary source of water is not a sole-source designated aquifer. Based on your representations and our review, we agree the department must generally withhold the submitted information under section 552.101 in conjunction with section 182.052. However, we find the billing dates contained in the submitted information do not constitute personal information or information relating to volume or units of utility usage, or amounts billed to or collected from individuals for utility usage. Thus, with the exception of the billing dates contained in the submitted information, the submitted information pertaining to natural persons must be withheld under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/agn

Ref: ID# 441125

Enc. Submitted documents

c: Requestor  
(w/o enclosures)