



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2012

Mr. Mike Willatt
Willatt & Flickinger
2001 North Lamar
Austin, Texas 78705

OR2012-04158

Dear Mr. Willatt:

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# 450149.

The Senna Hills Municipal Utility District (the "district"), which you represent, received a request for specified billing records, the most recent drought management and water conservation plans, and estimates of per capita water use in the area. You indicate the district will release the requested drought management plans, water conservation plans, and per capita water usage information, to the extent such information exists. You claim some of 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, such as section 182.052 of the Utilities Code, which 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.

(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.

(c) A government-operated utility shall include with a bill sent to each customer:

...

(3) a form by which the customer may request confidentiality by marking an appropriate box on the form and returning it to the government-operated utility.

Util. Code § 182.052(a)-(b), (c)(3). "Personal information" under section 182.052(a) is defined as "an individual's address, telephone number, or social security number," but does not include the individual's name. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). We also note a post office box number is not an address for the purposes of section 182.052. Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

There is no indication any of the exceptions listed in section 182.054 is applicable to the submitted information. You inform us some of the customers did not elect to make their personal or usage information confidential. Thus, the district may not withhold any of these customers' information under section 552.101 of the Government Code in conjunction with section 182.052. However, you indicate some of the customers did elect to withhold their personal and usage information, which we have marked. We are unable to determine whether the primary source of water for the district's utility is a sole-source designated aquifer. As such, we rule conditionally. To the extent the individual customers whose information we have marked did not make written confidentiality requests prior to the district's receipt of this request, the district must release the information of such individual customers. To the extent the individual customers at issue made written requests for confidentiality prior to the district's receipt of the request for information, the district must withhold the marked addresses and utility usage information under section 552.101 in conjunction with section 182.052 if the primary source of water is not a sole-source designated aquifer. *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 the primary source of water is a sole-source designated aquifer, then the district has the discretion to release the utility usage information, notwithstanding the customers' requests

for confidentiality. None of the remaining information constitutes personal information or information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage. Thus, the district may not withhold any of the remaining information under section 552.101 in conjunction with section 182.052 of the Utilities Code. The district must release the remaining information to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 450149

Enc. Submitted documents

c: Requestor
(w/o enclosures)