



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2012

Mr. Anthony S. Corbett
For Lost Creek Municipal Utility District
Freeman & Corbett
8500 Bluffstone Cove, Suite B-104
Austin, Texas 78759

OR2012-04913

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# 449992.

The Lost Creek Municipal Utility District (the "district"), which you represent, received a request for (1) the account name, mailing address, and total amount of water used by each account for each monthly billing cycle during a specified time period; (2) a copy of the most recent drought management plan and water conservation plan; and (3) any documents calculating or estimating the per capita water use of the district's service area for a specified time period. You state the district has released information responsive to item numbers 2 and 3 to the requestor. You claim that a portion of the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note that the customers' telephone numbers are not responsive to the request. This decision does not address the public availability of the non-responsive information, and it need not be released in response to the present request.

¹We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

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). 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 state the primary source of water for the district’s utility services is not a sole-source designated aquifer. Upon review, we conclude section 182.052 is applicable to the customers’ addresses in the submitted information, which we have marked. *See id.* § 182.051(4); ORD 625. We also agree section 182.052 is applicable to the information relating to the volume or units of utility usage and the amounts billed to or collected from the individuals at issue for utility usage, which we have marked. *See id.* 182.052(3). Thus, the district must withhold the information we have marked under section 552.101 in conjunction with section 182.052 if the customers at issue made a written

request for confidentiality of these types of information prior to the district's receipt of the request for information. However, the district may not withhold this information on that ground if the customers at issue did not make a written request for confidentiality of these types of information prior to the district's receipt of the request for information.

You assert the submitted account numbers are excepted from disclosure under section 552.136 of the Government Code, which provides the following:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device 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.

(b) Notwithstanding any other provision of this chapter, 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. The district must withhold the account numbers we have marked under section 552.136.

We conclude the following: (1) the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code if the customers at issue made a written request for confidentiality of these types of information prior to the district's receipt of the request for information; (2) the district must withhold the account numbers we have marked under section 552.136 of the Government Code; and (3) the district must release the remaining responsive 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 "Sean Opperman". The signature is written in black ink and is positioned above the typed name.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 449992

Enc. Submitted documents

c: Requestor
(w/o enclosures)