



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 28, 2012

Mr. James E. Shepherd
Counsel for the City of Parker
Shepherd Law Firm
1901 North Central Expressway, Suite 200
Richardson, Texas 75080-3528

OR2012-10030

Dear Mr. Shepherd:

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# 457764.

The City of Parker (the "city"), which you represent, received a request for information pertaining to the amount of water used at a specified address for a specified time period. 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.

Initially, we note, and you acknowledge, that portions of the submitted information do not pertain to the amount of water used at the specified address and, thus, are not responsive to the instant request. The city need not release non-responsive information in response to this request, and this ruling will not address that 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. This exception encompasses information that other statutes make confidential. You claim section 552.101 in conjunction with 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.

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

You state the responsive information consists of information related to the water usage of a residential customer. In this instance, there is no indication any of the exceptions listed in section 182.054 apply. However, it is unclear if the customer timely requested confidentiality for the water usage information at issue under section 182.052. We are also unable to determine whether the primary source of water for the city's utility is a sole-source designated aquifer. As such, we rule conditionally. If the customer whose information is at issue did not make a written confidentiality request prior to the city's receipt of this request, the city must release the responsive information. If the customer made a written request for confidentiality prior to the city's receipt of this request, the city must withhold the responsive 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* Open Records Decision No. 625 at 7 (1994) (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 city has the discretion to release the responsive information, notwithstanding the customer's request for confidentiality.

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 Nottingham".

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 457764

Enc. Submitted documents

c: Requestor
(w/o enclosures)