



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Ms. Cheryl K. Byles
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2012-12611

Dear Ms. Byles:

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# 462249 (W017408).

The City of Fort Worth (the "city") received a request for information pertaining to Human Relations Commission complaint number FW 12-73. You state the city has released most of the responsive information to the requestor. You claim portions of the submitted information are 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

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 the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. This office has found some kinds of medical

¹We assume the "representative sample" of records 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.

information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Thus, we determine the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also 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). The names of utility customers are not included in the definition of personal information and thus are not confidential under section 182.052 of the Utilities Code. Water service is included in the scope of utility services encompassed by section 182.052. *See id.* § 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.

We understand the city's primary source of water is not a sole-source designated aquifer. You state the information you have marked pertains to a water utility customer who requested confidentiality prior to the city's receipt of the instant request for information. You do not indicate any of the exceptions to confidentiality under section 182.054 of the Utilities Code are applicable in this instance. Based on your representations and our review of the information at issue, we find the city 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. However, we find the remaining information you have marked does 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. Accordingly, the remaining information may not be withheld under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.

Section 552.136 of the Government Code provides in part that "[n]otwithstanding any other provision of [the Act], 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(b); *see id.* § 552.136(a) (defining “access device”). You seek to withhold the customer identification number and location identification number you have marked in the submitted records under section 552.136. You inform us the marked customer and location identification numbers are combined to create a customer’s utility account number, which is used to obtain utility services. Based on your representations and our review, we find the city must withhold the customer and location identification numbers we have marked under section 552.136 of the Government Code. However, the information you have marked in blue does not consist of customer or location identification numbers and, therefore, may not be withheld under section 552.136 of the Government Code.

In summary, the city must withhold (1) the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code; and (3) the customer and location identification numbers we have marked under section 552.136 of the Government Code. The city must release the rest of the submitted 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 462249

Enc. Submitted documents

c: Requestor
(w/o enclosures)