



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 31, 2012

Ms. Patricia E. Carls  
Counsel for the Lakeway Municipal Utility District  
Carls, McDonald & Dalrymple, LLP  
901 South Mopac Expressway, Suite 500  
Austin, Texas 78746

OR2012-13856

Dear Ms. Carls:

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# 463791.

The Lakeway Municipal Utility District (the "district"), which you represent, received a request for seven categories of information related to the district's Drought Contingency Plan as amended in January 2012, February 2011, and May, 2011. You state the district will release some of the requested information to the requestor. You also state the district will redact personal e-mail addresses in accordance with section 552.137 of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

<sup>2</sup>We 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 that submitted to this office.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. 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).

You state none of the exceptions listed in section 182.054 are 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. Section 182.052(b) provides the means by which a customer may request confidentiality for his or her personal information, certain utility usage information, and information relating to the amounts billed to or collected from the customer for utility usage. *See id.* § 182.052(a)-(b).

You state some of the individuals whose information is at issue have requested confidentiality under section 182.052 for their personal information. Thus, the district must

withhold the information you have marked, and the additional 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. However, 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, the district may not withhold this information. The remaining information must be released.

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,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 463791

Enc. Submitted documents

c: Requestor  
(w/o enclosures)