



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2012

Ms. Andrea Russell
For City of Southlake
Taylor, Olson, Adkins, Sralla, Elam
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2012-15194

Dear Ms. Russell:

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# 466068.

The City of Southlake (the "city"), which you represent, received a request for the top 100 residential water customers and the top 100 business water customers by name and address for the month of June 2012.¹ You claim a portion 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 you have not submitted information responsive to the portion of the request for the top 100 business customers for the month of June 2012. To the extent such information existed when the city received the instant request, we assume it has been released. If such information has not been released, the city must do so at this time. See Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

¹We note the city sought and received clarification of the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

Next, we note the requestor seeks only the names and addresses of the top 100 residential and business customers. Accordingly, any other information, including the information you have highlighted concerning billed consumption, is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the city need not release non-responsive information in response to this request.

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 exception encompasses information that other statutes make confidential, 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.

Util. Code § 182.052(a)-(b). "Personal information" under section 182.052(a) means an individual's address, 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 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. *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.

The city seeks to withhold the addresses of the residential water customers you have highlighted in the submitted information. You state none of the exceptions to confidentiality under section 182.054 apply in this instance. You also state the primary source of water for the city's utility services is not a sole-source designated aquifer. Although you provide documentation showing some of the individuals at issue timely requested confidentiality under section 182.052, we are unable to determine if the remaining individuals at issue timely requested confidentiality. Therefore, we must rule conditionally. To the extent the individuals at issue did not request confidentiality of their personal information prior to the city's receipt of the request for information, the city may not withhold the addresses you have highlighted under section 552.101 of the Government Code in conjunction with

section 182.052 of the Utilities Code, and they must be released. To the extent the individuals at issue timely requested confidentiality, the city must withhold the addresses you have highlighted under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code, with the exception of the post office box numbers, which we have marked for release. See ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made).

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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 466068

Enc. Submitted documents

c: Requestor
(w/o enclosures)