



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2012

Ms. Rebecca Brewer
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2012-16510

Dear Ms. Brewer:

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# 467915.

The City of Frisco (the "city"), which you represent, received a request for monthly water bills showing charges and water usage amounts pertaining to a specified address during a specified period of time. You claim 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 the city did not submit responsive information pertaining to charges. We assume, to the extent any of this information existed when the city received the request for information, the city has released it to the requestor. If not, then the city must do so immediately. See Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000). Additionally, we note the submitted confidentiality election form is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this document to the requestor in response to this request.

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 section 182.052 of the Utilities Code, which provides in relevant 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, telephone number, and social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). We note customer names and the dates of service are not "personal information," as defined by section 182.051. *See* Util. Code § 182.051(4); *see also* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

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* Util. Code § 182.052(a), (b). You have submitted the confidentiality election form of the customer whose information is at issue. The election form permits the individual to request confidentiality for his "personal information," but does not provide a means for the individual to request confidentiality for his consumption information.

Accordingly, although the individual whose records are at issue has elected to keep his personal information confidential, we conclude the city may not withhold the customer's name and dates of service. Further, you have not established the customer at issue requested confidentiality for his consumption information before the city received the request for information. *See* Open Records Decision No. 478 at 2 (1987) (language of confidentiality statute controls scope of protection). Therefore, the city may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. As you raise no other exceptions to disclosure, the responsive 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 467915

Enc. Submitted documents

cc: Requestor
(w/o enclosures)