



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 22, 2013

Mr. James A. McKechnie
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307-1431

OR2013-14720

Dear Mr. McKechnie:

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# 497302 (City ID# 307).

The City of Wichita Falls (the "city") received a request for a list of the top 100 water users in the city. You state the city has released some of the requested information. 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.

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). "Personal information" under section 182.052(a) means 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, wastewater, gas, and garbage services are 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 information you have marked pertains to a customer who timely requested confidentiality under section 182.052. We note the information you have marked includes the name of the customer. As noted above, "personal information" under section 182.052(a) does not encompass the name of a customer. Thus, the city may not withhold the customer name at issue under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. With respect to the remaining information at issue, it appears none of the exceptions to confidentiality under section 182.054 apply in this instance. However, we are unable to determine whether the city's primary source of water is a sole-source designated aquifer. Thus, we must rule in the alternative. Accordingly, if the primary source of water for the city is not a sole source designated aquifer, 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. Conversely, if the primary source of water is a sole-source aquifer, then the city has the discretion to release the information we have marked, notwithstanding the customer's requests 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Wheelus". The signature is fluid and cursive, with a prominent initial "D" and a long, sweeping underline.

David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/dls

Ref: ID# 497302

Enc. Submitted documents

c: Requestor
(w/o enclosures)