



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2014

Mr. John Bartram
Counsel for Block House Municipal Utility District
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744

OR2014-12081

Dear Mr. Bartram:

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# 529035.

The Block House Municipal Utility District (the "district"), which you represent, received a request for information pertaining to individuals to whom the district sent delinquent water bill notices during a specified time period, limited to (1) the names, addresses, and telephone numbers of the individuals at issue who have not elected to keep their personal information confidential under section 182.052 of the Government Code, and (2) the names of the individuals at issue who have elected to keep their personal information confidential. 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 requestor seeks only the names, addresses, and telephone numbers of the individuals at issue who have not elected to keep their personal information confidential under section 182.052 of the Government Code. The requestor seeks only the names of the individuals who have elected to keep their personal information confidential. Thus, any other information is not responsive to the instant request for information. This ruling does not address the public availability of any information not responsive to the request, and the district need not release it in response to this request.

Next, we note the district did not submit the telephone numbers of the individuals at issue who have not elected to keep their personal information confidential. Therefore, to the extent information responsive to this aspect of the request existed at the time of the request, we assume the district has released it to the requestor. *See* 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). If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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 the following:

(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). The exceptions listed in section 182.054 do not appear to be applicable to the responsive information.

You inform us the customers you have indicated in the submitted information have elected to keep their personal information confidential. Thus, these customers' addresses are not responsive to the instant request, and the district need not release them in response to this request. However, the remaining addresses you have highlighted pertain to customers who have not elected to keep their personal information confidential. Thus, this information is not confidential under section 182.052. Furthermore, the remaining responsive information you seek to withhold, which consists only of customer names, is not personal information for purposes of section 182.052. Thus, the district may not withhold any of the responsive information you have marked under section 552.101 in conjunction with section 182.052 of the Utilities Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 established. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). However, there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision No. 545 (1990) (financial information pertaining to receipt of funds from governmental body or debts owed to governmental body not protected by common-law privacy). Upon review, we find you have failed to demonstrate how any of the responsive information, which pertains to the financial transactions of customers and the district, is highly intimate or embarrassing and of no legitimate public concern. Thus, none of the responsive information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no further 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.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 "Lee Seidlits", written in a cursive style.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 529035

Enc. Submitted documents

c: Requestor
(w/o enclosures)