



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2014

Ms. Rebecca Hendricks Brewer
Counsel for the City of Melissa
Abernathy Roeder Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2014-18444

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# 539343.

The City of Melissa (the "city"), which you represent, received a request for a list of all single family residences that have had water shut off due to non-payment during a specified period.¹ 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.²

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:

¹We note the city sought and received clarification of the request. See Gov't Code § 552.222(b).

²You have marked some of the submitted information as not responsive. This ruling does not address the public availability of information that is not responsive to a request, and the city is not required to release non-responsive information.

(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). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. *See* Util. Code § 182.054.

We understand the primary source of water for the city's utility services is not a sole-source designated aquifer. You assert the submitted information pertains to customers who timely requested confidentiality under section 182.052. However, of the three documents you submitted to support this assertion, only one indicates the customer elected to keep her personal information, usage information, and billing information confidential. Accordingly, the city must withhold this information, which we marked, under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. The remaining information is not made confidential by section 182.052 or it relates to individuals who did not make an election for confidentiality. Accordingly, the city may not withhold the remaining information under section 552.101 of the Government Code.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”³ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the city must withhold the account numbers we marked under section 552.136 of the Government Code.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code and the information we marked under section 552.136 of the Government Code. The city must release the remaining information.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 539343

Enc. Submitted documents

c: Requestor
(w/o enclosures)