



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2014

Mr. Donald R. Stout
Counsel for the City of Midlothian
Colvin & Stout, P.C.
P.O. Box 597
Ennis, Texas 75120

OR2014-19636

Dear Mr. Stout:

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# 541874.

The City of Midlothian (the "city"), which you represent, received a request for all records related to a specified restaurant and a named individual, to include utility bills, utility applications, alarm permit applications, and building permits. You state you have released some information. 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.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country.¹ Gov't Code § 552.130(a). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.²

¹The 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).

²As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

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 section encompasses section 1702.284(a) of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the [Texas Private Security Board], to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

Occ. Code § 1702.284(a); *see also id.* § 1702.002(1)(A)(ii) (defining “alarm system” as electronic equipment and devices designed to detect or signal the occurrence of a robbery or other emergency). Upon review, we find the information we have marked consists of alarm system information made confidential by section 1702.284. Accordingly, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. However, we find the city has failed to demonstrate how any portion of the remaining information concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used. Accordingly, no portion of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection).

Section 552.101 of the Government Code also encompasses 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). Water service is included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3). “Personal information” under section 182.052(a) includes an individual’s address, telephone number, and 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). We note because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable only to information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See* ORD 625 at 4-5 (in context of section 182.051(4) of the Utility Code, “individual” means only natural persons and does not include artificial entities). Section 182.054 of the Utilities Code provides six exceptions to the disclosure prohibition found in section 182.052. Util. Code § 182.054. We understand none of the exceptions listed in section 182.054 are applicable to the information at issue.

We note the information we have marked is subject to section 182.052 of the Utilities Code. However, we note you have not provided a confidentiality election form for the individual whose information is at issue. Thus, we are unable to determine if this individual timely requested confidentiality. Further, we are unable to determine whether the city’s primary source of water is a sole-source designated aquifer. Accordingly, we must rule conditionally. If the primary source of water for the city is not a sole-source designated aquifer, then the city must withhold the water billing information we have marked if the individual whose information is at issue timely made a written request for confidentiality for that information 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 for the city is a sole-source aquifer and the individual timely elected confidentiality for her water usage information, then the city has the discretion to release the information at issue, notwithstanding the individual’s request for confidentiality. However, if the individual did not timely elect confidentiality for her water billing information, then the city may not withhold that information under section 552.101 in conjunction with section 182.052. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). In any event, we find no portion of the remaining information consists of personal information subject to section 182.052; therefore, no portion of the remaining information may be withheld under section 552.101 on that basis.

In summary, the city must withhold the information we have marked under section 552.130 of the Government Code. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code. If the primary source of water for the city is not a sole-source designated aquifer, then the city must withhold the information we have marked if the individual timely made a written request for confidentiality for that information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. If the primary source of water for the city is a sole-source aquifer and the individual timely elected confidentiality for her water usage information, then the city has the discretion to release the

information at issue, notwithstanding the individual's request for confidentiality. The remaining 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 'J. Behnke', with a long horizontal flourish extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 541874

Enc. Submitted documents

c: Requestor
(w/o enclosures)