



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 21, 2016

Mr. T. Daniel Santee  
Counsel for the City of Schertz  
Denton Navarro Rocha Bernal Hyde & Zech, P.C.  
2517 North Main Avenue  
San Antonio, Texas 78212-4685

OR2016-01516

Dear Mr. Santee:

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# 594685.

The City of Schertz (the "city"), which you represent, received a request for the monthly water account statements and reports for specified mobile home and recreational parks during a specified time period.<sup>1</sup> The city states it will release some of the requested information. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>2</sup> We have considered the exception the city claims and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup>The city states it received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>We note the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because the exception the city claims can provide a compelling reason to overcome the presumption of openness, we will consider the city's claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>3</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

We note the information in Exhibit D is not responsive to the instant request for information because it does not consist of the requested monthly water account statements or reports. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

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. Section 182.052 of the Utilities Code provides in relevant 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.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number. *See id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). The scope of utility services covered by section 182.052 includes water. 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.

The city inform us the responsive information pertains to utility customers who have timely requested to keep his or her information protected pursuant to section 182.052. The city does not indicate any of the exceptions to confidentiality under section 182.054 apply in this instance. Accordingly, the city must withhold the customers’ addresses within the responsive information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. *See* ORD 625 at 7 (character of requested information as public or not public must be determined at time request for information is made). Additionally, the city states the city’s primary source of water is a sole-source designated aquifer. Accordingly, the city has the discretion to release the amounts billed and collected, notwithstanding the customers’ requests for confidentiality. However, we find the remaining responsive information does not constitute these customers’ personal, usage, or billing information subject to section 182.052 and the city may not withhold it under section 552.101 of the Government Code on that basis.

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](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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 594685

Enc. Submitted documents

c: Requestor  
(w/o enclosures)