



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2016

Ms. Natasha L. Brooks
Senior Assistant City Attorney
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR2016-09726

Dear Ms. Brooks:

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# 608167.

The City of Odessa (the "city") received a request for water consumption reports for eighteen specified addresses for a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information related to some of the specified addresses. To the extent information responsive to these portions of the request existed and was maintained by the city on the date you received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *Id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

¹We note, and you acknowledge, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. 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, 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 Utilities Code, "individual" means only natural persons and does not include artificial entities). Water service is included in the scope of utility services covered by section 182.052. *See* Util. Code § 182.051(3).

You state the submitted information relates to customers who have requested their accounts be kept confidential. In this instance, however, the customers listed in the submitted information are business or other artificial entities, not natural persons. Therefore, none of the submitted information is confidential under section 182.052, and the city may not withhold any portion of the submitted information under section 552.101 in conjunction with section 182.052 of the Utilities Code.

Section 552.136 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."² Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, the city must withhold the account numbers we have marked and indicated under section 552.136 of the

²The 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).

Government Code. As you raise no further exceptions to disclosure, 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,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 608167

Enc. Submitted documents

c: Requestor
(w/o enclosures)