



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2015

Ms. Susan Camp-Lee
Counsel for the City of Round Rock
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664

OR2015-08074

Dear Ms. Camp-Lee:

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# 561286 (City Reference No. W003632-012115).

The City of Round Rock (the "city"), which you represent, received a request for the name, city, state, zip code, and date of disconnection related to any single family residential properties where the water service had been disconnected for a specified time period.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we agree the information you have marked is not responsive to the instant request. We note some additional information, a representative sample of which we have marked, is also not responsive to the instant request for information because it does not consist of the name, city, state, zip code, and date of disconnection for any single family residential properties where the water service had been disconnected for a specified time period.² This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

¹We note the city sought and 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).

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

The city states it is unable to “run a report with the exact disconnect date[s] or with zip codes.” We note the Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983). However, a governmental body has a duty to make a good faith effort to relate a request for information to information that the governmental body holds. *See* Open Records Decision No. 561 at 8-9 (1990). We assume the city has made a good faith effort to do so.

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 exception encompasses information that other statutes make confidential, such as 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). “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). We note, however, that a customer’s name is not included in the definition of personal information, and therefore is not confidential under section 182.052 of the Utilities Code. *See* Open Records Decision No. 649 at 3 (1996) (language of statutory confidentiality provision controls scope of its protection). Furthermore, 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, waste water, gas, and garbage services are included in the scope of utility services covered by section 182.052. *See* 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.

You state the information you have indicated in Exhibit B pertains to customers who timely requested confidentiality under section 182.052 for their personal information, the volume or units of their utility usage, and the amounts billed to or collected from them for that utility usage. You do not indicate, and it does not otherwise appear, any of the exceptions to confidentiality under section 182.054 apply in this instance. You state the city's primary source of water is not a sole-source designated aquifer. Based on your representations and our review of the submitted information, we find, with the exception of the customers' names and the business entities' information which we have marked for release, the city must withhold the information it has indicated under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. However, the remaining responsive information that you seek to withhold does not consist of personal information in a customer's account record, or information relating to the volume or units of utility usage or the amounts billed to or collect from the individual for utility usage. Thus, this information is not confidential under section 182.052, and the city may not withhold any portion of it under section 552.101 on that basis. As you raise no further exceptions to disclosure, the city must release the remaining responsive 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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 561286

Enc. Submitted documents

c: Requestor
(w/o enclosures)