



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2017

Mr. Joseph J. Gorfida, Jr.
Counsel for the City of DeSoto
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street, Suite 1800
Dallas, Texas 75201

OR2017-08900

Dear Mr. Gorfida:

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# 654752.

The City of DeSoto (the "city"), which you represent, received two requests from the same requestor for monthly average water charges for a specified address for a particular time period. You state the city has released some responsive information, but 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.

Initially, we note the requests only seek the monthly average water charges for the specified address for a particular time period. Accordingly, the remaining information is not responsive to the instant requests. This ruling does not address the public availability of the non-responsive information, nor is the city required to release non-responsive information in response to these requests.

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 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). Water and wastewater are included in the scope of utility services covered by section 182.052. *Id.* § 182.051(3).

You argue the requested information is confidential under section 182.052 of the Utilities Code. You have provided a copy of the confidentiality election form of the utility customer at issue. You state there is no indication any of the exceptions to confidentiality under section 182.054 apply in this instance. You also state the primary source of water for the city's utility services is not a sole-source designated aquifer. Based on your representations and our review, we find the city must withhold the utility customer's billing information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code.¹

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/nmd

¹As our ruling is dispositive, we do not address your remaining claim.

Ref: ID# 654752

Enc. Submitted documents

c: Requestor
(w/o enclosures)