



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 30, 2019

Ms. Jessika J. Velasquez
Counsel for the City of Watauga
Evans, Daniel, Moore, Evans, Biggs & Decker
115 West Second Street, Suite 202
Fort Worth, Texas 76102

OR2019-14273

Dear Ms. Velasquez:

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# 768143 (PIA# 935).

The City of Watauga (the "city"), which you represent, received a request for information pertaining to water disconnections for residential addresses and open code violations for residential addresses during a certain period of time.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.

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 182.052 of the Utilities Code, which provides, in relevant part, the following:

¹You state, and provide documentation showing, the city sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You also inform us the city received the required payment on March 18, 2019. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

(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). A customer's request for confidentiality must precede the utility's receipt of the request for information. ORD 625 at 6. Additionally, because section 182.052 is intended to protect the safety and privacy of individual customers, this statute is applicable to only information pertaining to natural persons, and does not protect information relating to business, governmental, and other artificial entities. *See id.* 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).

You assert the information you marked consists of personal information of utility customers. You state the customers at issue have elected confidentiality for the accounts responsive to this request. There is also no indication the exceptions listed in section 182.054 apply. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. However, the remaining information is not confidential under section 182.052(a), and the city may not withhold it under section 552.101 on that ground.

Section 552.136(b) of the Government Code provides, "[n]otwithstanding any other provision of this chapter, 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Accordingly, the city must withhold the submitted account numbers under section 552.136 of the Government Code.

In summary, the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code and

must withhold the submitted account numbers under section 552.136 of the Government Code. 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 that reads "D. Michelle Case". The signature is written in a cursive style with a long horizontal flourish at the end.

D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/mo

Ref: ID# 768143

Enc. Submitted documents

c: Requestor
(w/o enclosures)