



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 30, 2019

Mr. Eric C. Farrar
Counsel for City of Cleveland
Olson & Olson, L.L.P.
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2019-30608

Dear Mr. Farrar:

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# 794269 (Ref. #COC19-003).

The City of Cleveland (the "city"), which you represent, received a request for information pertaining to specified utility accounts during a specified time period. You 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.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses information protected by 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, 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 services are included in the scope of utility services covered by section 182.052. 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.

We understand the primary source of water for the city’s utility services is not a sole-source designated aquifer. You also do not indicate any of the exceptions to confidentiality under section 182.054 of the Utilities Code apply in this instance. Although you assert the information at issue is confidential under section 182.052, you do not inform us, nor provide any documentation demonstrating, the customers whose information is at issue timely requested confidentiality of their personal information. Further, we note some of the information at issue may pertain to businesses or other artificial entities, which is not made confidential by section 182.052. Therefore, to the extent the customers whose information is at issue are natural persons who elected confidentiality prior to the date the city received the present request for information, the city must withhold the information we marked and indicated under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. To the extent the information we marked and indicated does not pertain to natural persons, or if the customers did not elect confidentiality for their information prior to the date the city received the present request for information, the city may not withhold the information at issue under section 552.101 in conjunction with section 182.052(a). In either case, we find the remaining information at issue does not constitute personal information of a customer or the volume or units of utility usage and the amounts billed to or collected for that utility usage. Therefore, the remaining information is not confidential under section 182.052, and the city may not withhold it under section 552.101 on that basis.

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.”¹ Gov’t Code

¹ The 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).

§ 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the city must withhold the utility account numbers within the remaining information under section 552.136 of the Government Code.

In summary, to the extent the customers whose information is at issue are natural persons who elected confidentiality prior to the date the city received the present request for information, the city must withhold the information we marked and indicated under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. The city must withhold the utility account numbers within the remaining information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Meagan Hunter
Assistant Attorney General
Open Records Division

MH/jxd

Ref: ID# 794269

Enc. Submitted documents

c: Requestor
(w/o enclosures)