



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 31, 2019

Mr. Brandon S. Davis
Counsel for the City of Dayton
Fielder & Davis
1517 Trinity Street
Liberty, Texas 77575

OR2019-30853

Dear Mr. Davis:

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# 794515.

The City of Dayton (the "city"), which you represent, received a request for records that show all water and utility disconnects during a period of time. The city states it will release some information to the requestor upon payment of a cost estimate. 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 representative sample of information.¹

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

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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). A customer's request for confidentiality must precede the utility's receipt of the request for information. ORD 625 at 6.

Upon review, we find the information we marked is subject to section 182.052(a) of the Utilities Code. You state the individuals whose information is at issue are utility customers and timely requested confidentiality under section 182.052. In addition, you state the city's primary source of water is not a sole-source designated aquifer. There is 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 [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"). Accordingly, the city must withhold the utility account numbers within the remaining information under section 552.136 of the Government Code.

In summary, 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. 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.

² This office 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).

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,

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/gw

Ref: ID# 794515

Enc. Submitted documents

c: Requestor
(w/o enclosures)