



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

July 6, 2020

Mr. Zachary Noblitt  
Assistant City Attorney  
City of Irving  
P. O. Box 152288  
Irving, Texas 75015

OR2020-13899A

Dear Mr. Noblitt:

This office issued Open Records Letter No. 2020-13899 (2020) on May 16, 2020. We have determined the prior ruling should be corrected. *See* Gov't Code §§ 552.306, .352. Accordingly, we hereby withdraw the prior ruling. This decision is substituted for Open Records Letter No. 2020-13899 and serves as the correct ruling. *See generally id.* § 552.011 (Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). This ruling was assigned ID# 829194 (ORR# PI-20-0928)).

The City of Irving (the "city") received a request for the name and water-usage information pertaining to a specified utility account. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note only the submitted name and water-usage information pertaining to the account at issue are responsive to the request for information. 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 the nonresponsive information in response to this request.

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. Section 552.101 of the Government Code encompasses section 182.052 of the Utilities Code, which 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 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.

The city asserts the responsive information consists of water-usage and personal information of a utility customer who made a request for the confidentiality of that information. We understand the primary source of water for the city's utility services is not a sole-source designated aquifer. There is also no indication the exceptions listed in section 182.054 apply. Accordingly, the city must withhold the submitted water-usage information under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code. However, the remaining responsive information is not confidential under section 182.052(a) and the city may not withhold it under section 552.101 on that ground. Therefore, 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 <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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

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c: Requestor