



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 2, 2022

Ms. Andrea D. Russell
Counsel for the Town of Flower Mound
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2022-03120

Dear Ms. Russell:

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# 928919 (PIR #668-21).

The Town of Flower Mound (the "town"), which you represent, received a request for certain information pertaining to a specified utility during a defined period of time. 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 from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 182.052 of the Utilities Code, which provides, in part, as follows:

- (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, unless the customer requests that the government-operated utility disclose the information.

(b) A customer may request disclosure of information described by Subsection (a) by delivering to the government-operated utility an appropriately marked form provided under Subsection (c)(2) or any other written request for disclosure.

Util. Code § 182.052(a)-(b). “Personal information” under section 182.052(a) means 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). Waste, wastewater, gas, garbage, electricity, and drainage services are included in the scope of utility services covered by section 182.052. *See* 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 town is a government-operated utility for purposes of section 182.052. *See id.* § 182.051(3) (providing a “government-operated utility” is a governmental body or entity that, for compensation, provides water, wastewater, sewer, gas, garbage, electricity, or drainage service). Upon review, we find the information at issue consists of personal information of utility customers. Accordingly, to the extent the customers did not request that the town disclose information described by subsection (a) of section 182.052, the town must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code. To the extent the customers did request that the town disclose information described by subsection (a) of section 182.052, the town may not withhold any such information under section 552.101 in conjunction with section 182.052. In that instance, as no further exceptions to disclosure have been raised, the town must release the information at issue.

Finally, you also ask this office to issue a previous determination that would permit the town to withhold information under section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code without requesting a ruling from this office. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Pursuant to section 182.052(e), we note the town already has the authority to withhold such information without requesting a ruling from this office. Util. Code § 182.052(e) (governmental body may withhold information prohibited from being disclosed under section 182.052 without requesting a decision from the attorney general). Accordingly, 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jxd

Ref: ID# 928919

Enc. Submitted documents

c: Requestor
(w/o enclosures)