



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 23, 2016

Ms. Heather Silver
Assistant City Attorney
City of Dallas
1500 Marilla Street, Room 7DN
Dallas, Texas 75201

OR2016-18993

Dear Ms. Silver:

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# 626211.

The City of Dallas (the "city") received a request for information pertaining to the renovation of two specified schools. You state the city will release some information upon the requestor's response to a cost estimate. You state the city does not have information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Further, you state release of some of the submitted information may implicate the interests of the Dallas Independent School District (the "district"). Accordingly, you state you notified the district of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released.² See Gov't Code § 552.304 (providing that interested party

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We note the city failed to comply with section 552.301 of the Government Code in requesting a ruling; however, section 552.101 of the Government Code is a mandatory exception that constitutes a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. See Gov't Code §§ 552.007, .301, .302, .352. Accordingly, we will consider the city's argument under section 552.101. Further, because third party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third party interests. See *id.* §§ 552.001, .302, .352. As of the date of this letter, we have not received comments from the district explaining why the submitted information should not be released.

may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

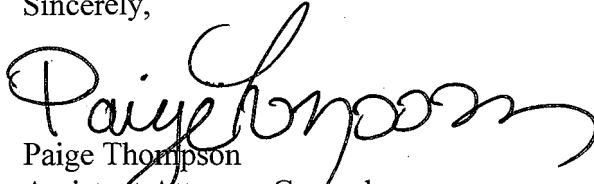
Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses the Texas Homeland Security Act (the “HSA”). As part of the HSA, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.181 provides “[t]hose documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism.” *Id.* § 418.181. The fact information may generally be related to a governmental body’s security concerns or to a security system does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You assert the submitted information relates to a fire alarm system used to protect one of the specified schools, which we understand you to assert is critical infrastructure. You claim release of the submitted information would reveal information relating to the specifications of the fire alarm system that could be used to identify and exploit weaknesses in the fire alarm system. You further claim release of the submitted information would expose potential vulnerabilities of the school’s fire alarm system. We agree the specified school is critical infrastructure. *See generally id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). Based on your representations and our review, we find the city has demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 626211

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)