



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 10, 2017

Ms. Whitney V. Ables
Counsel for Fort Bend County Municipal Utility District No. 151
Allen Boone Humphries Robinson, L.L.P.
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

OR2017-05080

Dear Ms. Ables:

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# 648544.

The Fort Bend County Municipal Utility District No. 151 (the "district"), which you represent, received a request for information pertaining to specified storm and wastewater permit applications. You state you released some information. 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. This section encompasses information that is made confidential by other statutes. You raise section 552.101 in conjunction with section 418.181 of the Homeland Security Act (the "HSA"). Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.181 provides:

Those 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 that information may relate to a governmental body's security measures 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 of a statute's key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of how the responsive records fall 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 state the submitted information "contain[s] numerous technical details related to the [d]istrict's wastewater treatment plant and sanitary sewer system." You argue, and we agree, the district's wastewater treatment plant and sanitary sewer system are part of the district's critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2) (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"). You state that public release of the submitted information "could provide the means by which the sanitary sewer systems could be easily compromised, interfered with, or incapacitated," and thus put the public health and safety of the district's residents at risk. Based on your representations and our review of the information at issue, we find the district has demonstrated the release of the information we have marked would identify the technical details of particular vulnerabilities of the district to an act of terrorism. Thus, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, we find the district has failed to demonstrate the remaining information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Consequently, we find the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The district 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 <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,

A handwritten signature in black ink, appearing to read 'Meagan J. Conway', written in a cursive style.

Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/sb

Ref: ID# 648544

Enc. Submitted documents

c: Requestor
(w/o enclosures)