



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2017

Ms. Shea Smith
Assistant City Attorney
City of Sugar Land
P. O. Box 110
Sugar Land, Texas 77487-0110

OR2017-17643

Dear Ms. Smith:

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# 671387 (ORR W002115).

The City of Sugar Land (the "city") received a request for the construction plan for utilities at a specified address. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 Government Code. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (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 concerns does not make the information *per se* confidential under the HSA. *See* Open

¹We note you failed to comply with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301 (b). Nevertheless, section 552.101 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* § 552.302. Thus, we will consider the applicability of section 552.101.

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 explain the submitted information consists of technical drawings of portions of the city's water and sanitary sewer systems. You assert, and we agree, the city's water and sanitary sewer systems are critical infrastructure. *See 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 explain the release of the submitted information "could provide a potential terrorist with technical details that would provide sufficient information to interrupt or damage the [c]ity's water and sewer system." Further, you state "this information could enable a terrorist to render water and sewer operation at this particular site inoperable, which in turn could cause severe disruption of the [c]ity's overall water and sewer system." Based on your arguments and our review of the submitted information, we find that you have demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of the city's critical infrastructure to an act of terrorism. Thus, the submitted information must be withheld 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 Lay
Assistant Attorney General
Open Records Division

PL/eb

Ref: ID# 671387

Enc. Submitted documents

cc: Requestor
(w/o enclosures)