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ATTORNEY GENERAL OF TEXAS

November 20, 2017

Ms. Angela Lutz
Counsel for the First Colony Levee Improvement District
Allen Boone Humphries Robinson, LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

OR2017-26555

Dear Ms. Lutz:

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# 685234.

The First Colony Levee Improvement District (the "district"), which you represent, received a request for the emergency plan of the district.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions 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 of the Government Code encompasses information protected by other statutes, including section 418.176 of the Texas Homeland Security Act

¹We note the district sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(the “HSA”), chapter 418 of the Government Code. Section 418.176(a) of the Government Code provides, in part, as follows:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

...

(2) relates to a tactical plan of the [emergency response] provider[.]

Id. § 418.176(a)(2). The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under section 418.176. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting sections 418.176 must adequately explain how the responsive information falls within the scope of the provisions. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

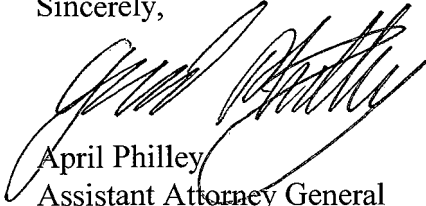
You state the responsive information consists of the district’s Emergency Field Operations Manual. You state the submitted information details “any and all actions required to respond to specific intense rainfall events, tropical storms and hurricanes, or Brazos River flood events which are predicted to directly impact the [district] or the vicinity of the [district].” You state the submitted information contains technical details of the district’s critical infrastructure, including the emergency procedures designed to protect the district’s levee, detention, and drainage systems. Upon review, we conclude the submitted information was collected, assembled, or maintained by or for the district for the purpose of responding to an act of terrorism or related criminal activity and relates to a tactical plan maintained by the district. *See id.* § 418.176(a)(2). Therefore, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176(a) of the Government Code.²

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.

²As our ruling for this information is dispositive, we need not address the remaining arguments against its disclosure.

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,



April Philley
Assistant Attorney General
Open Records Division

AP/som

Ref: ID# 685234

Enc. Submitted documents

c: Requestor
(w/o enclosures)