



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 13, 2018

Ms. Mary Kay Fischer
City Attorney
City of Friendswood
910 South Friendswood Drive
Friendswood, Texas 77546

OR2018-03361

Dear Ms. Fischer:

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# 695668 (City's Reference No. W008452-111517).

The City of Friendswood (the "city") received a request for information pertaining to a specified emergency management plan. You state you have 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 representative of information.¹

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 protected by other statutes, such as section 418.176 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.176 provides in part:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(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:

(1) relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

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

Gov't Code § 418.176(a)(1)-(2). The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *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 this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

The city states the submitted information consists of “information collected, assembled, or maintained by or for a governmental entity for [the] purpose of responding to emergency situations[.]” Additionally, the city states release of the information would compromise the city’s ability to respond to an emergency situation by providing “those who would commit a terroristic or criminal act with information necessary to facilitate their acts and information that would assist them in avoiding apprehension.” Based on these representations and our review, we find the city has established the submitted information relates to the staffing requirements of an emergency response provider or relates to a tactical plan of the provider and is maintained by or for a governmental entity for the purposes of preventing, detection, responding to, or investigating an act of terrorism or related activity. *See id.* § 418.176(a)(1)-(2). Therefore, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 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,

A handwritten signature in black ink, appearing to read 'Jahna Ward', with a long, sweeping flourish extending to the right.

Jahna Ward
Assistant Attorney General
Open Records Division

JW/tdw

Ref: ID# 695668

Enc. Submitted documents

c: Requestor
(w/o enclosures)