



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 20, 2019

Ms. Julie Pandya Doshier
Counsel for City of Richardson
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 North Akard, Suite 1800
Dallas, Texas 75201

OR2019-04751

Dear Ms. Doshier:

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# 753179 (Ref No. 105058; 18-1071).

The City of Richardson (the “city”), which you represent, received a request for all communications, leases, licenses, and payment histories related to cellular telephone towers during a specified time period.¹ You state the city has released some of the requested information. You state some of 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 sample of information.²

¹We note the city sought and received clarification of the information requested. *See* Gov’t Code § 552.222 (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).

²We 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 that those records contain substantially different types of information than that submitted to this office.

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 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. You assert the some of the requested information is confidential under section 418.181 of the Government Code, which 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 exception to disclosure, 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 state the submitted information relates to “cellular communications equipment placed on [c]ity-owned [water towers].” You assert, and we agree, the city’s water system and cellular technology systems at issue are 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”). You state the information at issue includes “details regarding the security procedures in place to allow the contract communication companies access to [c]ity facilities . . . where the companies’ cell phone antennas and cell tower equipment are located.” You assert release of the information at issue could “equip a potential terrorist with the ability to disrupt cell phone service in the city and the security protocol necessary to attempt to obtain access to said critical infrastructure.” Based on your arguments and our review, we find you have demonstrated release of information at issue would identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the city must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The city 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/eb

Ref: ID# 753179

Enc. Submitted documents

c: Requestor
(w/o enclosures)