



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 28, 2019

Mr. Ryan D. Pittman  
Counsel for the City of Frisco  
Abernathy, Roeder, Boyd & Hullett, P.C.  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75069

OR2019-14040

Dear Mr. Pittman:

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# 767434.

The City of Frisco (the "city"), which you represent, received a request for documents related to a specified building. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state you notified Acuity Associates; Gensler; Guidepost Solutions; Henderson Engineers, Inc.; Kimly-Horn & Associates; Lerch Bates; Rolf-Jensen & Associates; Sports Design Group; Studio Outside; Walter P Moore; William Caruso & Associates; and WJHW, Inc. of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances).* We have the submitted argument and reviewed the submitted information. We have also received and considered comments from the requestor. *See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).*

Section 552.101 of the Government Code excepts from public 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. As part of the Texas Homeland Security Act, sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. You assert the submitted information is made confidential by sections 418.181 and 418.182 of the Government Code.

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. Section 418.182 provides, in relevant part,

(a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

*Id.* § 418.182(a). The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the Texas Homeland Security Act. *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 Texas Homeland Security Act must adequately explain 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).

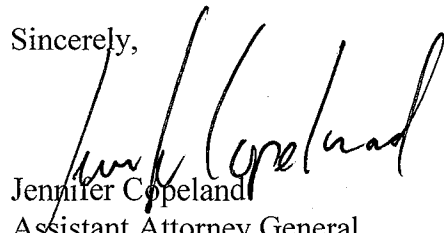
You seek to withhold the submitted information under sections 418.181 and 418.182. You assert the property at issue is critical infrastructure and release of the submitted information would reveal the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. You also state portions of the information depict where certain existing water, wastewater, electrical, and gas line systems are located in the city. You state this information is vital to the city's security and operations, which the city must maintain as confidential to aid, protect and defend the city's citizens and others located near the critical infrastructure. Upon review, we find you have demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of 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"). Therefore, the submitted

information must be withheld under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.<sup>1</sup>

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](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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/mo

Ref: ID# 767434

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

12 Third Parties  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.