



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2019

Mr. Samuel D. Hawk  
Counsel for the Town of Highland Park  
Boyle & Lowry, L.L.P.  
4201 Wingren Drive, Suite 108  
Irving, Texas 75062-2763

OR2019-23328

Dear Mr. Hawk:

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# 781696.

The Town of Highland Park (the "town"), which you represent, received a request for specified information pertaining to a certain property. 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 sample of information.<sup>1</sup>

Initially, we note some of the information you have submitted, which we have marked, is not responsive to the request because it does not consist of the specific information requested. This ruling does not address the public availability of any information that is

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<sup>1</sup> We assume that 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.

not responsive to the request, and the town is not required to release such information in response to this request.<sup>2</sup>

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 Homeland Security Act (the “HSA”). Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the HSA. Section 418.181 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 that information may relate to a governmental body’s security measures 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 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 state the submitted information pertains to a dam. You assert, and we agree, the dam at issue is part of the town’s storm sewer system, which is 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 explain the submitted responsive information could be used by potential terrorists or criminal actors “to disrupt storm sewer service on a massive scale[.]” You also state the information at issue “identif[ies] locations at which the injection of contaminants could cause the most damage or cause extreme environmental damage.” Based on your representations and our review, we find you have demonstrated the submitted responsive information identifies the technical details of particular vulnerabilities of the town’s storm sewer system to an act of terrorism. Thus, the submitted responsive 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.

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<sup>2</sup> As we are able to make this determination, we need not address your argument against disclosure of this information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Emily Kunst". The signature is written in a cursive, flowing style.

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/jxd

Ref: ID# 781696

Enc. Submitted documents

c: Requestor  
(w/o enclosures)