



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 11, 2019

Mr. James Santangelo
Assistant City Attorney
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

OR2019-25405

Dear Mr. Santangelo:

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# 785265 (City ID# MCAG 19-20).

The City of Missouri City (the "city") received a request for drawings of a specified development. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception 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 also encompasses section 418.181 of the Government Code. This section was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act and makes confidential certain information related to terrorism. 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.

¹Although you also raise section 552.101 in conjunction with common-law privacy for the submitted information, you provide no arguments explaining how this doctrine is applicable to the information at issue. Therefore, we assume you no longer assert these doctrines. See Gov't Code §§ 552.301, .302.

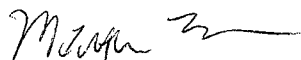
Id. § 418.181. The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the Texas Homeland Security Act. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). 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 assert the submitted information identifies technical details and vulnerabilities of critical infrastructure. You also assert the information at issue "identifies the technical details of particular vulnerabilities of this critical infrastructure to terrorist acts because divulging the exact location and placement of water lines and mains and sanitary sewer features can provide potential terrorists the exact coordinates of attacks that would most effectively disrupt the transportation of sewage, causing a public health crisis, or disrupt the flow of water to homes and businesses." However, we find you have not demonstrated the information at issue identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The city must release the submitted 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 <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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/jxd

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Enc. Submitted documents

c: Requestor
(w/o enclosures)