



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 26, 2019

Ms. Katheryne Ellison
Assistant General Counsel
Houston Independent School District
4400 West 18th Street
Houston, Texas 77092-8501

OR2019-27021

Dear Ms. Ellison:

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# 786593 (HISD File No. T070319).

The Houston Independent School District (the "district") received a request for specified change orders to the construction contract of a specified building. The district states it will release some information to the requestor. The district claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district claims and reviewed the submitted representative sample 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. Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act ("HSA"). The district claims the submitted information is excepted from disclosure under sections 418.181 and 418.182 of the Government Code. Section 418.181 provides,

¹ We 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.

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 ; *see also 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, and functions vital to the state or the nation”). 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 or emergency management activities 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 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).

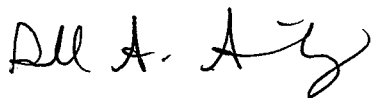
The district asserts the submitted information identifies the technical details of particular vulnerabilities of a particular district school to an act of terrorism. The district states, and we agree, the district’s school buildings are critical infrastructure for purposes of section 418.181. *See id.* § 421.001 (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). The district further states the information at issue reveals entry and exit points as well as potential security vulnerabilities. The district asserts release of the information at issue “could lead to a breach of security at [a district] school building[,] compromising the safety of [the district]’s students and employees[.]” Based on the district’s representations and our review, we agree most of the submitted information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Accordingly, with the exception of the information we have marked, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, the district has not demonstrated the marked information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Consequently, the district may not withhold any of the marked information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. Additionally, we find the district has not demonstrated any of the marked information 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. Thus, the district may not withhold any of the marked information under section 552.101 of the Government Code in conjunction with section 418.182 of the Government Code, and the district must release it to the requestor.

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,

A handwritten signature in black ink, appearing to read "Gerald Arismendez". The signature is fluid and cursive, with the first name "Gerald" and last name "Arismendez" clearly distinguishable.

Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 786593

Enc. Submitted documents

c: Requestor
(w/o enclosures)