



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 16, 2019

Ms. Patsy Spaw  
Secretary of the Senate  
The Senate of the State of Texas  
P.O. Box 12068  
Austin, Texas 78711

OR2019-29094

Dear Ms. Spaw:

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# 791782.

The Senate of the State of Texas (the "senate") received a request for specified policies, correspondence between certain e-mail addresses, and correspondence sent or received by senate staff including specified key words.<sup>1</sup> You state the senate will release some of the requested information upon payment of costs. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. You also state release of the requested information may implicate the interests of the Senate Preservation Board (the "board"), and you have notified the board of its right to submit comment to this office.<sup>2</sup> See Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the exceptions 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." *Id.* § 552.101. This section encompasses information that is made confidential by other

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<sup>1</sup> The senate sought and received clarification of the information requested. See Gov't Code § 552.222 (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) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup> As of the date of this letter, we have not received comments from the board.

statutes, such as 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 states:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of critical infrastructure to an act of terrorism.

*Id.* § 418.181. Section 418.182 provides in 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 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).

You assert, and we agree, the Capitol Complex (the “complex”) is critical infrastructure. *See 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 information at issue pertains to the security system used to protect the complex from acts of terrorism and related criminal activity. You state the information at issue pertains to “the re-keying of doors and entryways and access to building security systems,” and would reveal “the identities of state personnel with interest in and authority over building security and describe security measures in place . . . and the use of monitoring stations within the [complex].” Further, you assert release of the information at issue would “jeopardize building security and subject the many individuals working in and visiting the [complex] to an increased threat of physical harm.” Based on your representations and our review, we find you have demonstrated the submitted information relates to the specifications, operating procedures, or location of a security system used to protect public property from an act of terrorism or related criminal activity and identifies the technical details of particular vulnerabilities of the complex to an act of terrorism. Accordingly, the senate must withhold the submitted information under section 552.101 in conjunction with sections 418.181 and 418.182 of the Government Code.<sup>3</sup>

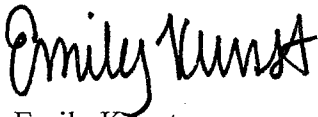
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<sup>3</sup> As our ruling is dispositive, we need not address your remaining argument against disclosure.

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

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/gw

Ref: ID# 791782

Enc. Submitted documents

c: Requestor  
(w/o enclosures)