



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 23, 2019

Ms. Jessica Farrias
Administrative Support Specialist
City of Carrollton
1945 East Jackson
Carrollton, Texas 75006

OR2019-29970

Dear Ms. Ferrias:

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# 793082 (Reference No. 17019).

The City of Carrollton (the "city") received a request for information pertaining to a specified location.¹ 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 information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.181 of the Government Code provides as follows:

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.

¹ We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing 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) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

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 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 indicate the information at issue pertains to the city's water, storm, and wastewater system. You argue, and we agree, the city's water and sanitary sewer utility systems are critical infrastructure for purposes of section 418.181 of the Government Code. *See generally id.* § 421.001(2) (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 state release of this information "would identify the technical details of particular vulnerabilities in the water, storm[,] and wastewater systems[.]" Based on your representations and our review, we find you demonstrated release of the information at issue would identify the technical details of particular vulnerabilities of the city's critical infrastructure to an act of terrorism. Thus, with the exception of the information we have marked for release, the city must withhold Exhibit B and the information we marked in Exhibit C under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.² However, we find the city has failed to demonstrate the remaining information is confidential under section 418.181 of the Government Code. Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

Section 552.101 of the Government Code also encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides, in relevant part:

(a) Except as provided by Section 182.054, a government operated utility may not disclose personal information in a customer's account record, or any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual for utility usage, if the customer requests that the government operated utility keep the information confidential. However, a government operated utility may disclose information related to the customer's volume or units of utility usage or amounts billed to or collected from the individual for utility usage if the primary source of water for such utility was a sole source designated aquifer.

(b) A customer may request confidentiality by delivering to the government operated utility an appropriately marked form provided under Subsection (c)(3) or any other written request for confidentiality.

² As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

Util. Code § 182.052(a), (b). “Personal information” under section 182.052(a) means an individual’s address, telephone number, or social security number, but does not include the individual’s name. *See id.* § 182.051(4); see also Open Records Decision No. 625 (1994) (construing statutory predecessor). Water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

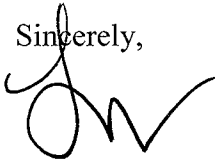
Upon review, we find the city has not demonstrated any of the remaining information is protected by section 182.052. Therefore, the city may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 182.052(a) of the Utilities Code.

In summary, with the exception of the information we have marked for release, the city must withhold Exhibit B and the information we marked in Exhibit C under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The city must release the remaining 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,



Jahna Ward
Assistant Attorney General
Open Records Division

JW/rm

Ref: ID# 793082

Enc. Submitted documents

c: Requestor
(w/o enclosures)