



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2019

Ms. Captoria Brown
Senior Paralegal
City of Carrollton
1945 East Jackson
Carrollton, Texas 75006

OR2019-31357

Dear Ms. Brown:

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# 798084 (Ref. No. 17296).

The City of Carrollton (the "city") received a request for specified engineering records. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "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 chapter 418 of the Government Code. 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 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.

¹ We note the city failed to comply with section 552.301 of the Government Code in requesting a decision from this office; however, section 552.101 of the Government Code can provide a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. See Gov't Code §§ 552.301, .302. Accordingly, we will consider the city's argument under section 552.101 of the Government Code.

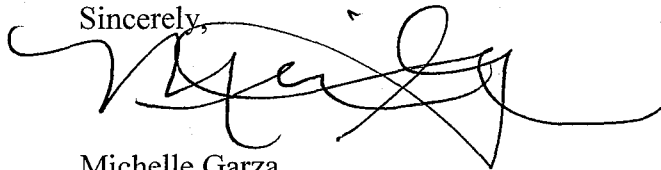
Id. § 418.181; *see also id.* § 421.001(2) (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). The fact that information may relate to a governmental body’s 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 state the submitted information identifies details of the city’s water and wastewater systems. You argue, and we agree, the city’s water and wastewater systems constitute critical infrastructure for purposes of section 418.181 of the Government Code. *See id.* § 421.001(2). You argue the release of the information at issue would reveal the technical details of particular vulnerabilities of the critical infrastructure to terrorism. Based upon your representations and our review, we find the information at issue reveals the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Accordingly, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.²

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,



Michelle Garza
Assistant Attorney General
Open Records Division

MG/eb

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

Ms. Captoria Brown - Page 3

Ref: ID# 798084

Enc. Submitted documents

c: Requestor
(w/o enclosures)