



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 26, 2020

Mr. Rahat Huq
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2020-06199

Dear Mr. Huq:

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# 816471 (GC No. 26412).

The City of Houston (the "city") received a request for sixteen categories of information pertaining to a specified incident. The city states it does not maintain information responsive to portions of the request.¹ The city states it will release some information to the requestor. 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 from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

decision.” Gov’t Code § 552.101. This exception encompasses information that is made confidential by other statutes. The city raises section 552.101 in conjunction with section 418.181 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Sections 418.176 through 418.182 were added to chapter 418 as part of the HSA. These provisions make certain information related to terrorism confidential. 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.

Id. § 418.181. The fact that information may be related to a governmental body’s security concerns does not make such 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 city argues the submitted information is confidential under section 418.181. Upon review, we agree the airport is critical infrastructure. *See id.* § 421.001(2). You state the information at issue contains technical details regarding the location of fuel line, mechanical, and utility infrastructure. You also state release of this information “could bring down airport operations or cause great damage to the airport with potentially disastrous consequences.” Based on these representations and our review, we agree some of the information at issue identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, we find you have failed to demonstrate the remaining information is confidential under section 418.181, and the city may not withhold it under section 552.101 on this basis. 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

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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,



Katie Stallcup
Attorney
Open Records Division

AKS/gw

Ref: ID# 816471

Enc. Submitted documents

c: Requestor
(w/o enclosures)