



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 14, 2022

Ms. Amanda Rice  
Assistant City Attorney  
City of Temple  
2 North Main Street, Suite 308  
Temple, Texas 76501

OR2022-01313

Dear Ms. Rice:

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# 925583 (Ref. No. 21-2888).

The City of Temple (the "city") received a request for information pertaining to four named individuals and two specified addresses during stated periods of time. You claim some of 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 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 418.182 of the Government Code provides, in relevant part, the following:

- (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 the information you have marked is confidential under section 418.182 of the Government Code. You explain the information at issue relates to a security system used to protect private property from an act of terrorism or related criminal activity. Based on your representations and our review, we conclude the information you have marked is related 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. *See Tex. Dep't of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App.—Austin 2010, no pet.) (recorded images necessarily relate to specifications of security system that recorded them, and thus, are confidential under section 418.182). Accordingly, the city must generally withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 418.182(a) of the Government Code.

However, the requestor is a representative of a child-placing agency that is licensed by the Texas Department of Family Protective Services ("DFPS") in accordance with chapter 42 of the Human Resources Code. *See generally* Hum. Res. Code ch. 42. Pursuant to rules promulgated by DFPS under chapter 42 of the Human Resources Code, child-placing agencies are required to complete a foster home screening prior to verifying a foster home. *See* 26 T.A.C. § 749.2445(a); Hum. Res. Code § 42.042(a), (h)-(h-1) (executive commission shall make rules to carry out provisions of chapter 42, including minimum standards for child-placing agencies). Further, child-placing agencies are required to evaluate a foster home for compliance with licensing rules in certain instances. *See* 26 T.A.C. § 749.2801. Pursuant to section 749.2470, verifying a foster home includes completing and documenting the requirements set out in section 749.2447 of title 26 of the Texas Administrative Code. *Id.* § 749.2470(a)(1); *cf.* Hum. Res. Code § 42.0561 (providing in part that "[b]efore a child-placing agency may issue a verification certificate for an agency foster home, the child-placing agency must obtain information relating to each family violence report at the applicant's residence to which a law enforcement agency responded during the 12 months preceding the date of the application. The applicant shall provide the information on a form prescribed by [DFPS]."). Section 749.2447(7) provides a child-placing agency must obtain, document, and assess, in part, the following information about a prospective foster home:

The results of criminal history and central registry background checks conducted on the prospective foster parents[.] . . . With respect to law enforcement service call information, [the child-placing agency] *must do the following*:

(i) Obtain service call information from the appropriate law enforcement agency for each of the prospective foster parents' addresses over the past two years. Discuss with the prospective foster parents any service call information that [the child-placing agency] obtain[s] from a law enforcement agency and the facts surrounding the incident.

...

(iii) Assess and document information obtained from law enforcement and any discussion with the prospective foster parents in the foster home screening.

26 T.A.C. § 749.2447(7)(B)(i), (iii) (emphasis added); *see id.* § 749.2445(a); *see also* 26 T.A.C. §§ 745.21(9) (defining “child-placing agency”), (33) (defining “permit”), (34) (defining “permit holder”); *see* 26 T.A.C. §§ 749.41(1) (defining “you” as applicant or permit holder), .43 (words and terms in chapter 749 have meanings assigned under section 745.21). Thus, sections 749.2447(7) and 749.2471 of title 26 of the Texas Administrative Code require a child-placing agency to obtain all service call information for a two-year period for service calls to the addresses of prospective foster parents from appropriate law enforcement agencies. *See id.* §§ 749.2447(7), .2471. Accordingly, we find a child-placing agency licensed by DFPS under chapter 42 of the Human Resources Code has a right of access to this information under section 749.2447(7) when it is obtained for the purpose of verifying a prospective foster home pursuant to the requirements of section 749.2471.

The requestor states she is seeking information involving prospective foster parents at their residences for the previous two years. Accordingly, we conclude the requestor has a right of access to the information at issue pursuant to section 749.2447(7) of title 26 of the Texas Administrative Code. Thus, we must address the conflict between the access provided under section 749.2447(7) and the confidentiality provided under section 418.182 of the Government Code. Where information falls within both a general and a specific statutory provision, the specific provision prevails over the general statute. *See Gov't Code* § 311.026 (where general statutory provision conflicts with specific provision, specific provision prevails as exception to general provision unless general provision is later enactment and manifest intent is that general provision prevails); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). Although section 749.2447(7) generally allows a child-placing agency access to service call information, section 418.182 of the Government Code specifically protects information that relates to security systems used to protect public or private property from an act of terrorism or related criminal activity. Thus, we find the confidentiality provided by section 418.182 of the Government Code is more specific than, and prevails over, the right of access provided by section 749.2447(7) of title 26 of the Texas Administration Code. Accordingly, we conclude, notwithstanding the statutory right of access granted to the requestor by section 749.2447(7) of title 26 of the Texas Administrative Code, the city must withhold the information you have marked under section 552.101 of the Government Code

in conjunction with section 418.182 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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/be

Ref: ID# 925583

Enc. Submitted documents

c: Requestor  
(w/o enclosures)