



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 6, 2022

Ms. Rachel Saucier
Executive Assistant
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR2022-12984

Dear Ms. Saucier:

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# 946068 (Ref. No. G016699-021622).

The City of Georgetown (the "city") received a request for storm water information pertaining to a specified area. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Steger Bizzell. Accordingly, you state, and provide documentation showing, you notified Steger Bizzell of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request because it does not pertain to the storm water information requested by the requestor. This ruling does not address the public availability of the non-responsive information, and the city need not release it in response to this request.

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.

Gov't Code § 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 state the responsive information relates to the city's water, sewer, and drainage systems. You argue, and we agree, the city's water, sewer, and drainage 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 compromise the safety of that critical infrastructure and provide criminals and terrorists critical information to attack such infrastructure. Based on your representations and our review, we find the city has demonstrated release of the information at issue would identify the technical details of particular vulnerabilities of the city to an act of terrorism. Thus, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.¹

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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/jm

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 946068

c: Requestor

Third Party