



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 27, 2022

Ms. Aliceson Cotton
Counsel for the City of Frisco
Abernathy, Roeder, Boyd & Hullett
1700 Redbud Boulevard, Suite 300
McKinney, Texas 75069

OR2022-15351

Dear Ms. Cotton:

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# 950519 (Gov't QA# G056305).

The City of Frisco (the "city") received a request for images of city utility lines. 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 disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 418.181 of the Texas Homeland Security Act (the "HSA"), chapter 418 of the Government Code. Section 418.181 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.

Id. § 418.181. The fact that information may be related to a governmental body's security-concerns or emergency preparedness 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).

You state the submitted information depicts components of the city's water and sewer systems. You assert, and we agree, the city's water and sewer systems are critical infrastructure for purposes of section 418.181. *See 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 the submitted information "identifies particular vulnerabilities as well as strong and weak points in design" of the systems at issue. Based upon your representations and our review, we find you have demonstrated the release of the information at issue would identify the technical details or particular vulnerabilities of the city's 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.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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/jxd

Ref: ID# 950519

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not address your remaining argument against disclosure.