



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 25, 2022

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

OR2022-25822

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# 968414 (Reference Nos. G058408 and G058661).

The City of Frisco (the "city"), which you represent, received two requests from different requestors for certain information pertaining to a stated address. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the city states release of the submitted information may implicate the proprietary interests of Kimley-Horn Associates ("KHA"). Accordingly, the city states, and provides documentation showing, it notified KHA of the requests for information and of its right to submit arguments to this office. *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 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 of the Government Code provides the following:

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; *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).

The city states the submitted information reveals technical details of layouts of the city’s fire protection system. The city asserts, and we agree, the fire protection system is critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2). The city states the information at issue “identifies particular vulnerabilities as well as strong and weak points in design” of the fire protection system. The city explains release of the information at issue could provide criminals or terrorists with information on how to target this system and reveal vulnerabilities in these systems. Based upon these 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’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.<sup>1</sup>

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

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/mo

Ref: ID# 968414

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

cc: Third Party  
(w/o enclosures)