



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2022

Ms. Nicole A. Corr
Counsel for the Town of Addison
Wood Banowsky, P.L.L.C.
5810 Long Prairie Road, Suite 700-220
Flower Mound, Texas 75028

OR2022-33093

Dear Ms. Corr:

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# 980169 (Ref. No. 9645).

The Town of Addison (the "town"), which you represent, received a request for all records pertaining to specified addresses. We understand the town has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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 information that is made confidential by other statutes, such as section 418.181 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). Section 418.181 provides "[t]hose 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 the security, governance, public health and safety, economy, or morale of the state or the 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

¹ Although you cite to section 552.130 of the Government Code in your brief, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

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 confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls 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 pertains to the town's water, sanitary sewer, and stormwater systems. You state, and we agree, the town's water, sanitary sewer, and stormwater systems constitute critical infrastructure for purposes of section 418.181. *See generally id.* § 421.001(2). You assert release of the information at issue "could allow a potential terrorist to determine where the greatest damage to the [town's] water and sewage lines . . . could be achieved; thus resulting in the destruction or sabotage to disrupt the flow of water causing harm to persons and property damage." Further, you assert "release of the information could potentially facilitate the release of toxins or contaminants into the [town's] water system resulting in extensive environmental damage, creating a public health hazard or disrupting local economic activity." Based on your representations and our review, we find you have demonstrated the release of some of the submitted information, which we have marked, would identify the technical details of particular vulnerabilities of the town to an act of terrorism. Accordingly, the town must withhold the information we have 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 identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, we conclude the town may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The town 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,

Blake Brennan
Assistant Attorney General
Open Records Division

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Ms. Nicole A. Corr - Page 3

Ref: ID# 980169

Enc. Submitted documents

c: Requestor
(w/o enclosures)