



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2011

Ms. Jessica C. Eales
Assistant City Attorney
City of Houston Legal Department
P.O. Box 368
Houston, Texas 77001-0368

OR2011-02485

Dear Ms. Eales:

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# 408261 (GC Nos. 17915 and 18005).

The City of Houston (the "city") received two requests from the same requestor for any map that shows which areas in the city are served by each specific groundwater well, a breakdown of how many gallons of drinking water came from each groundwater well or other distribution sources for a specified time period, and any information from a specified time period which discusses the limitation of use of any water well for any reason or which describes why a well's use is being limited. You claim that the requested 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. We have also received and considered comments from a representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section 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 certain information related to terrorism confidential. You assert the submitted data is confidential under section 418.181 of the Government Code, which 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. 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 the 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).

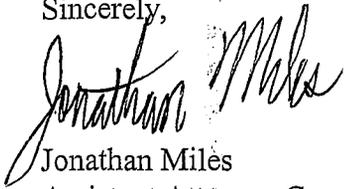
You explain the submitted information identifies technical details of the city’s water system. You assert, and we agree, the city’s water system is critical infrastructure. *See id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). You inform us that the requested information, which consists of water flow influence area maps, shows what areas are affected by particular water plants. You state that although the city previously released a similar map for a specified water plant, that map showed only historical information and is now obsolete. You state that the present requests seek current information that would reveal the major water supply entry points in the city’s water distribution system and the effect each entry point has on the water distribution system. You contend the release of the submitted information could provide a potential terrorist with details regarding specific water distribution system entry points that are vulnerable to attack and would allow the potential terrorist to ascertain the potential effect of such an attack. Accordingly, based on your arguments and our review, we conclude the submitted information is confidential under section 418.181 of the Government Code and must be withheld from disclosure on that basis under section 552.101 of the Government Code.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned above the printed name.

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 408261

Enc. Submitted documents

c: Requestor
(w/o enclosures)