



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 8, 2012

Ms. Molly Shortall  
Assistant City Attorney  
City of Arlington  
P.O. Box 90231  
Arlington, Texas 76004-3231

OR2012-03537

Dear Ms. Shortall:

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# 447751.

The City of Arlington (the "city") received requests from two requestors for information regarding (1) funds spent in connection with the provision of a protection detail for two named city officials and (2) use of city assets, resources, and personnel at a specified address during 2011. You state some of the requested information was the subject of a previous open records letter ruling. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered your arguments and reviewed the information you submitted.

You state some of the information responsive to the present requests was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-01679 (2012). In that ruling, we concluded the city must withhold the requested information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code. You do not indicate there has been any change in the law, facts, and circumstances on which the previous ruling is based. We therefore conclude the city must continue to withhold the responsive information encompassed by Open Records Letter No. 2012-01679 in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

Next, we address your claim for the submitted information under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be

confidential by law, either constitutional, statutory, or by judicial decision,” Gov’t Code § 552.101, and encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 418.176 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 418.176 provides in part:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency[.]

*Id.* § 418.176(a)(1). The fact that information may generally be related to emergency preparedness does not make the information confidential *per se* under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality provision, a governmental body that claims section 418.176 must adequately explain how the information at issue falls within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted information falls within the scope of section 418.176. On review, we agree. We therefore conclude the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 of the Government Code.<sup>1</sup>

In summary, the city must withhold (1) the responsive information encompassed by Open Records Letter No. 2012-01679 in accordance with the previous ruling and (2) the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 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.

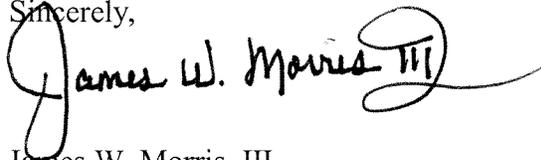
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free,

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<sup>1</sup>As we are able to make this determination, we need not address your other arguments against disclosure of the submitted information.

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 black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, looping initial "J" and a long, sweeping underline.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 447751

Enc: Submitted documents

c: Requestors  
(w/o enclosures)