



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2012

Mr. Michael B. Gary
Legal Counsel
Harris County Appraisal District
P.O. Box 920975
Houston, Texas 77292-0975

OR2012-08989

Dear Mr. Gary:

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# 454929 (HCAD # 12-1480B).

The Harris County Appraisal District (the "district") received a request for all sketch vectors for all accounts in Harris County.¹ You claim that the submitted information is not public information subject to disclosure under the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your submitted arguments and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See*

¹You note that the district sought and received a clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we address your assertion the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act defines public information as information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

(2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information that is made public under section 552.021. *See* ORD 581 at 6 (construing predecessor statute). You assert the submitted information consists of computer codes not subject to the Act. Additionally, you assert the submitted information meets the definition of "documentation information" addressed in Open Records Decision No. 581. "Documentation" is defined as "an English language text describing various aspects of a program, such as how the program was written and how it may be used and maintained." *Id.* at 3. You explain "the 'sketch vector' stored in [the district's] computer system is a database string of character data that describes the outline of a building or the sections of a building." You state the "sketch vector" is a "string of computer codes, and is used as the most reliable and accurate way to produce a meaningful drawing in the [district's] mass appraisal process." We note information is within the scope of the Act if it relates to the official business of a governmental body and is maintained by a public official or employee of the governmental body. *See* Gov't Code § 552.002(a). Having considered your arguments and reviewed the submitted information, we find the submitted information is maintained by the district in connection with the transaction of official district business and, as a representation of a building or structure, has significance other than as a tool for the maintenance, manipulation, or protection of public property. Accordingly, the submitted information is subject to the Act and may be withheld only if it falls within the scope of an exception to disclosure. *See id.* §§ 552.301, .302.

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. This exception encompasses information that another statute makes confidential. You raise section 552.101 in conjunction with section 418.181 of the Government Code. Sections 418.176 through 418.182 were added to chapter 418 of the

Government Code as part of the Texas Homeland Security Act. These provisions make certain information related to terrorism confidential. Section 418.181 provides:

Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details or particular vulnerabilities of critical infrastructure to an act of terrorism.

Id. § 418.181; *see generally 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”). The fact that information may relate to a governmental body’s security measures does not make the information *per se* confidential under the Texas Homeland Security Act. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation of a statute’s key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under section 418.181 must be accompanied by an adequate explanation of 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 contend the submitted information is confidential pursuant to section 418.181. You generally state that release of the submitted information would require disclosure of “all infrastructure, and more importantly, the relationship of the infrastructure to other buildings and infrastructure[.]” You further contend release of the requested sketch vectors would provide the requestor with “the vulnerabilities of all critical infrastructure in Harris County.” However, other than these general assertions, you have not described or identified any specific buildings or structures considered by the district to constitute critical infrastructure for purposes of section 421.001 of the Government Code. Accordingly, we are unable to determine how the requested sketch vectors relate to critical infrastructure for purposes of section 418.181, and thus, we find you failed to demonstrate how the submitted information identifies the technical details or particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. As you raise no other exceptions to disclosure, the submitted information must be released.

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 black ink, appearing to read 'VB', followed by a horizontal line.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 454929

Enc. Submitted documents

c: Requestor
(w/o enclosures)