



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2013

Ms. Leticia Brysch
City Clerk
City of Baytown
P.O. Box 424
Baytown, Texas 77522-0424

OR2013-11863

Dear Ms. Brysch:

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# 492900 (PIR #850).

The City of Baytown (the "city") received a request for a specified pipeline permit application. You claim the submitted 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 that is made confidential by other statutes. 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 (the "HSA"). 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 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 measures 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 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 assert, and we agree, the oil and natural gas pipelines at issue are critical infrastructure. *See 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"). You state some of the submitted information consists of plans that contain the locations and technical details of the pipelines and their proximity to residential and commercial areas and petrochemical companies. You explain this information contains engineering plans, drawings and maps with specifications showing the horizontal pipeline location, pipeline covering depths, and locations of shutoff valves. You also state this information reveals cross sections of public way crossings; location, course, and alignment of the pipeline and public ways; and the design criteria applied to the existing infrastructure under which the pipeline is constructed. You assert releasing this information could expose the potential vulnerabilities of the pipeline system by showing the points in the pipeline system where the placement of explosives, corrosives, or contaminants can cause the most damage to the city.

Based on your arguments and our review of the submitted information, we find you have demonstrated the release of the information pertaining to the maps and plans of the pipelines, which we have marked, would identify the technical details of particular vulnerabilities of the pipeline system to an act of terrorism. Thus, the city 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, upon review of the remaining information and the submitted arguments, we conclude you have failed to establish the remaining information in the permit application, including insurance documents and material safety data sheets, would reveal the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Thus, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.

We note portions of the remaining information are subject to section 552.136 of the Government Code.¹ Section 552.136 provides that "[n]otwithstanding any other provision

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for the purposes of section 552.136. Accordingly, the city must withhold the insurance policy numbers we have marked under section 552.136.

In summary, the city 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. The city must also withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The city 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 492900

Enc. Submitted documents

c: Requestor
(w/o enclosures)