



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 13, 2013

Ms. Meredith Riede
Assistant City Attorney
City of Sugar Land
2700 Town Center Boulevard North
Sugar Land, Texas 77479-0110

OR2013-15935

Dear Ms. Riede:

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# 498054.

The City of Sugar Land (the "city") received a request for twenty categories of information pertaining to the following: a specified piece of property; Ordinance 1468; Area 7; a specified 557 acres annexed by the city; all of the city's master plans; documents regarding appealing a decision by a city administrative official, the city's Planning and Zoning Commission, or the city council; city council meeting minutes; and communications regarding the city's planned expansion in a specified area. You inform us you will release the majority of the requested information to the requestor. 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.

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 protected by other statutes. As part of the Texas Homeland Security Act ("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.

Section 418.181 of the Government Code 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).

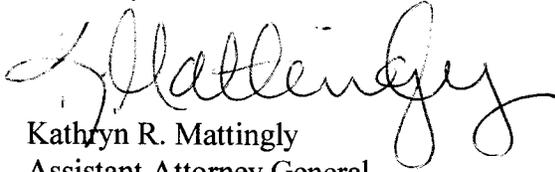
You state the submitted information reveals vulnerabilities of the city’s water and wastewater systems. We note the city’s water and wastewater systems are critical infrastructure. *See generally id.* § 421.001 (defining “critical infrastructure” to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, economy, or morale of the state or the nation”). You explain the release of the submitted information could provide someone who intends to use such information improperly with technical details regarding the city’s water and wastewater lines, the city’s water treatment and distribution process, and the city’s fire flow capacity by area. Based on your arguments and our review of the information at issue, we find the city has shown some of the submitted information identifies the technical details of particular vulnerabilities of the city’s water and wastewater systems to an act of terrorism. Thus, we find this information is confidential under section 418.181 of the Government Code. However, we find you have failed to establish the remaining information reveals the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. This information, which we have marked for release, may not be withheld under section 552.101 in conjunction with section 418.181 of the Government Code. Thus, except for the information we have marked for release, the city must withhold 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 further exceptions to disclosure, the city must release the information we have marked for release.

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,

A handwritten signature in cursive script, appearing to read "K. Mattingly".

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 498054

Enc. Submitted documents

c: Requestor
(w/o enclosures)