



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 23, 2013

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

OR2013-18468

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# 508631.

The City of Sugar Land (the "city") received a request for current outstanding building and fire code violations, certificates of occupancy, building permits, fire incident reports and investigation reports, hazardous materials documentation, and environmental complaints or violations related to a specified location. You state the city has released or will release most of the requested information. You claim the remaining 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.

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. You assert the submitted information 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

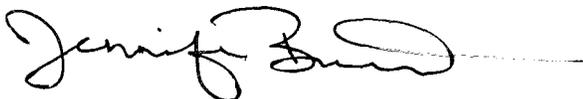
of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

We note the city's water system, which supplies water to city residents, is critical infrastructure because "its function is vital to the security, governance, public health, safety and economy of the [c]ity." *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 state the submitted information consists of a backflow prevention assembly test and maintenance report. You explain "[b]ackflow prevention assemblies are devices that are required by [the c]ity for locations that have an actual or potential threat of contamination of a physical or toxic nature" to the public's or a consumer's potable water system. You assert the information at issue "can be used to obtain drawings of the devices online or by catalogue and this information could enable someone to inject contaminants into the [c]ity's potable water system." You further assert release of the information at issue would reveal the technical details and particular vulnerabilities of the city's water system and provide a potential terrorist with information to sabotage the city's water system. Based on your representations and our review, we find you have demonstrated release of the submitted information would identify the technical details of particular vulnerabilities of the city's water system to an act of terrorism. Thus, the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 418.181 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

Ref: ID# 508631

Enc. Submitted documents

c: Requestor  
(w/o enclosures)