



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2014

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

OR2014-05548

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# 518677.

The City of Arlington (the "city") received a request for building plans and specifications relating to the use and location of fire retardant treated wood and plywood contained in the new Cowboys Stadium. The city received a second request for the "AsBuilt Plans" for the stadium. 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 representative sample of information.¹

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. You raise section 552.101 in conjunction with section 418.181 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 418.181 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 generally be related to vulnerabilities of critical infrastructure 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). As with any exception to disclosure, a

¹We assume the "representative sample" of information 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.

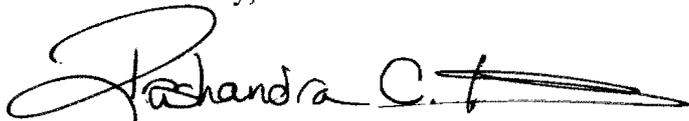
governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls within the scope of the provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

This office has already determined the stadium is "critical infrastructure" for purposes of section 418.181. *See* Open Records Letter No. 2006-13186 (2006); *see generally* Gov't Code § 421.001 (defining "critical infrastructure" to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). The information at issue consists of building specifications and plans that detail the method of construction of the floors, walls, ceilings, roof, doors, corridors, entrances, and exits of the stadium, as well as the fire protection system. The city has submitted affidavits from a Lieutenant in the Arlington Police Department (the "lieutenant") and the Fire Marshal of the Arlington Fire Department (the "marshal"). In their affidavits, the lieutenant and marshal explain how the requested specifications and plans reveal the vulnerabilities of the stadium and how a would-be terrorist could use such information to his advantage. After reviewing the lieutenant and marshal's arguments and the information at issue, we conclude the city has demonstrated how the information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Accordingly, the city must withhold the requested information 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, 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 black ink, appearing to read "Rashandra C. Hayes", with a long horizontal flourish extending to the right.

Rashandra C. Hayes
Assistant Attorney General
Open Records Division

RCH/dls

Ref: ID# 518677

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)