



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2014

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

OR2014-08106

Dear Ms. Crow:

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# 523207.

The City of Sugar Land, the City of Sugar Land Building Permits and Inspections, and the Sugar Land Fire Department (collectively the "city") received three requests for information pertaining to a specified piece of land. You state you are releasing a majority of the requested information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information was created after the date the request was received by the city.¹ We have marked this information as not responsive to the instant request for information. This ruling does not address the public availability of nonresponsive

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

information, and the city is not required to release nonresponsive information in response to this request.

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. Section 552.101 encompasses information protected by other statutes. As part of the Texas Homeland Security Act (the “HSA”), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. You assert portions of the submitted information are made confidential by section 418.181 of the Government Code. 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.

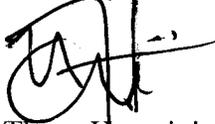
Id. § 418.181. *See generally id.* § 421.001 (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). The fact that information may relate to a governmental body’s critical infrastructure or 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 a 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 assert the information you have indicated relates to the fire sprinkler systems of two neighboring properties and reveals details of particular vulnerabilities of critical infrastructure to an act of terrorism. Upon review, we find you have failed to demonstrate how the responsive information at issue identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, none of the responsive information at issue is confidential pursuant to section 418.181 of the Government Code, and the city may not withhold it under section 552.101 of the Government Code. As you raise no other exceptions against disclosure, the responsive 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.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 'Thana Hussaini', with a long horizontal stroke extending to the right.

Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 523207

Enc. Submitted documents

c: Requestor
(w/o enclosures)