



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2014

Ms. Rebecca Hendricks Brewer
Counsel for City of Frisco
Abernathy, Roeder, Boyd & Joplin, P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2014-12175

Dear Ms. Brewer:

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# 532252.

The City of Frisco (the "city") received a request for utility location, depth information, and geographic information systems shapefiles for a specified property. 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. Section 552.101 encompasses the Texas Homeland Security Act ("HSA"), sections 418.176 through 418.182 of the Government Code. These provisions make certain information related to terrorism confidential. We understand you to 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).

You state the release of the submitted information would reveal details pertaining to the location of critical infrastructure of the city's water system (the "system"), which we agree constitutes 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 state the submitted information identifies key details and locations of particular vulnerabilities in the design of the system, which would show weak points in the design. You contend the submitted information "amount[s] to a blueprint for . . . terrorist[s] on how to maximize damage to a populated area while minimizing their efforts." Based on these representations and our review, we agree most of the submitted information is confidential under section 418.181 of the Government Code. However, you have not demonstrated how the remaining information, which consists of details of a proposed water line, identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Consequently, the city may not withhold this information, which we have marked for release, under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. With the exception of the information we 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.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 532252

Enc. Submitted documents

c: Requestor
(w/o enclosures)