



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 3, 2011

Mr. Quentin D. Price
First Assistant City Attorney
City of Beaumont
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2011-07855

Dear Mr. Price:

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# 420072 (Beaumont ORR No. 03-56).

The City of Beaumont (the "city") received a request for certain customer and assembly information from the city's Backflow Prevention Assembly Test and Maintenance Reports (the "reports"). You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we note the requestor seeks only certain customer and assembly information from the reports. Thus, only the information sought by the requestor is responsive to the request. This ruling does not address the public availability of the remaining non-responsive information contained in the reports, and the city need not release information that is not responsive to the request.

We understand you to assert section 552.101 in conjunction with section 418.181 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code

¹Although you raise section 552.107 of the Government Code, you make no arguments to support this exception. Accordingly, we find the city has waived its claim under this exception. *See* Gov't Code § 552.301(e) (governmental body must provide comments stating why exceptions raised should apply to information requested).

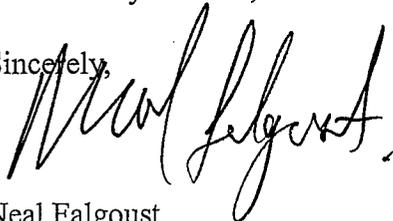
²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

§ 552.101. Section 552.101 encompasses 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; *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”). 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 id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). You state the requested information relates to the city’s public water supply, “a vital security interest subject to terroristic acts.” You further state, “[a] person with the information requested by [the requestor] could sabotage the [c]ity’s fresh water supply.” Based on these representations and our review, we agree the city’s public water supply is critical infrastructure and the requested information identifies the technical details of particular vulnerabilities of the water supply. Thus, 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 420072

Enc. Submitted documents

c: Requestor
(w/o enclosures)