



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2014

Ms. Allison Bastian
Assistant City Attorney
City of Brownsville
1001 East Elizabeth, Suite 234
Brownsville, Texas 78520

OR2014-12719

Dear Ms. Bastian:

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# 534027.

The City of Brownsville (the "city") received a request for building and site plans for a specified parking garage. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You argue the submitted information is excepted from disclosure by section 552.101 of the Government Code, which 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 confidential certain information related to terrorism. You assert the submitted information is confidential pursuant to 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 *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 inform us the submitted information consists of building plans for a public parking garage being constructed in the city's downtown area. You argue, and we agree, the public parking garage is critical infrastructure for purposes of section 418.181 of the Government Code. *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 documents contain "extensive detail in the form of drawings and written descriptions about the proposed construction, infrastructure and components of the proposed public parking garage," which is "directly related to . . . the safety and security of citizens and their property." You inform us the information contains "[d]rawings and specifications related to the internal and external structure of the building, wall thicknesses and compositions, areas not open to the public, fire alarm plans, and the fire-resistive rating of walls and other structural elements[,] all of which are vulnerabilities [that] could be exploited by individuals wishing to carry out a terroristic or other violent act against the local populace." Based on your arguments and our review of the information at issue, we agree the information at issue identifies technical details of particular vulnerabilities of the city's critical infrastructure to an act of terrorism. Thus, 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.¹

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

¹As our ruling is dispositive, we need not address your remaining argument against its disclosure.

Ref: ID# 534027

Enc. Submitted documents

c: Requestor
(w/o enclosures)