



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2015

Mr. Gregory L. Grigg  
Chief of Police  
City of Deer Park  
2911 Center Street  
Deer Park, Texas 77536-4942

OR2015-10924

Dear Mr. Grigg:

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# 572445 (Req. #2015-1240).

The Deer Park Police Department (the "department") received a request for the building plans for the department facility, all inspection reports for the department facility, and all inspection reports for buildings constructed on a specified street during the past three years. We understand that, aside from the submitted information, you have no information responsive to the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes.

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<sup>1</sup>The 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).

Sections 418.176 through 418.182 were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (“HSA”). You claim the submitted information is excepted from disclosure under sections 418.177, 418.181, and 418.182 of the Government Code. 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 relate to a governmental body’s security concerns or emergency management activities 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 state the submitted information relates to the department facility, which “is a critical part of local disaster planning, including the use of the department [facility] as a disaster shelter.” Thus, we find the department facility is critical infrastructure. *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 further state release of the submitted information would “reveal in exact detail the layout of the mechanical and operational features of the [department] facility . . . [and] would permit the public to anticipate weaknesses in the facility and therefore jeopardize the security of the facility.” Based on your representations and our review, we agree the submitted information identifies the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. Therefore, the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.<sup>2</sup>

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.

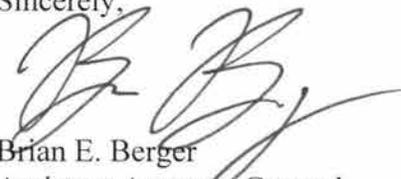
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>2</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

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 "BB", with a long horizontal flourish extending to the right.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 572445

Enc. Submitted documents

c: Requestor  
(w/o enclosures)