



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 12, 2016

Mr. Ryan D. Pittman  
Counsel for the City of Frisco  
Abernathy Roeder Boyd & Hullett, P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2016-00931

Dear Mr. Pittman:

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# 594214 (Frisco Ref. No. G007404-101915).

The City of Frisco (the "city"), which you represent, received a request for information pertaining to the Stonebriar Country Club Estates. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of this information may implicate the proprietary interests of KPA Consulting, Inc. ("KPA"). Accordingly, you have notified KPA of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any comments from KPA explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude KPA has any protected proprietary interests in the information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information

is trade secret), 542 at 3. Consequently, the city may not withhold any of the submitted information on the basis of any proprietary interests KPA may have in the 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 exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with sections 418.181 and 418.182 of the Government Code, which were added to chapter 418 of the Government Code as part of the Texas Homeland Security Act. 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. Section 418.182 provides in part:

(a) Except as provided by Subsections (b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

*Id.* § 418.182(a). The fact information may generally be related to a governmental body’s security concerns or to a security system does not make the information *per se* confidential under sections 418.181 and 418.182. *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 confidentiality provision, a governmental body asserting sections 418.181 and 418.182 must adequately explain how the responsive information falls within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

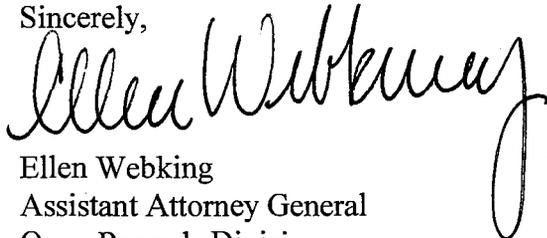
You seek to withhold the submitted information under sections 418.181 and 418.182. You assert the Stonebriar Country Club Estates is critical infrastructure and release of the submitted information would reveal the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism. You also state a portion of the information contains plans for the gravity sanitary sewer main and sanitary and storm sewer and water main. You state this information is vital to the city’s security operations, which the city must maintain as confidential to protect and defend the city’s citizens and others located near the critical infrastructure. Based on these arguments and our review, we agree portions of the information at issue fall within the scope of section 418.181. Accordingly, we have marked the information the city must withhold under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. However, the city has failed to establish any portion of the remaining information reveals the technical details of particular

vulnerabilities of critical infrastructure to an act of terrorism. *See* Open Records Decision Nos. 542 (1990) (stating that governmental body has burden of establishing that exception applies to requested information), 532 (1989), 515 (1988), 252 (1980). Additionally, we find the city has not demonstrated the remaining information at issue relates to the specifications, operating procedures, or location of a security system used to protect public or private property from terrorism or related criminal activity. Therefore, the city may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 418.181 or section 418.182 of the Government Code. As no further exceptions are raised, the remaining 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](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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/akg

Ref: ID# 594214

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. G.W. Findley  
KPA Consulting, Inc.  
14800 Quorum Drive, Suite 500  
Dallas, Texas 75248  
(w/o enclosures)