



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 2, 2016

Mr. L. Brian Narvaez  
Counsel for the City of McKinney  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2016-19876

Dear Mr. Narvaez:

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# 625170 (City Ref. No. G000973-061416).

The City of McKinney (the "city"), which you represent, received a request for information pertaining to buildings with backflow devices, information pertaining to buildings with fire systems, and testing due dates for the backflow devices. 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. This section encompasses information protected by other statutes. 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 Exhibit B is excepted from disclosure under section 418.181 of the Government Code. Section 418.181 of the Government Code 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 also 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, and functions vital to the state or the nation"). 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 assert Exhibit B is related to the city's water system and thus pertains to critical infrastructure for the purposes of section 418.181 of the Government Code. You explain the information identifies the location of backflow devices throughout the city and thus reveals technical details of particular vulnerabilities of the city's water system. Based on your representations and our review of the information at issue, we find the information is confidential under section 418.181 of the Government Code. We therefore conclude the city must withhold Exhibit B on that basis under section 552.101 of the Government Code.

Section 552.101 of the Government Code also encompasses section 1702.284(a) of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the [Texas Private Security Board], to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

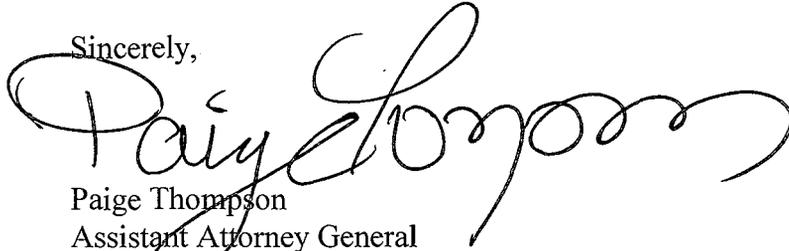
Occ. Code § 1702.284(a); *see also id.* § 1702.002(1)(A)(ii) (defining "alarm system" as electronic equipment and devices designed to detect or signal the occurrence of a robbery or other emergency). The city states Exhibit C reveals the locations of alarm systems within the city. Upon review, we agree Exhibit C consists of alarm system information made confidential by section 1702.284. Accordingly, the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations Code.

In summary, the city must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code. The city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 1702.284 of the Occupations 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](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# 625170

Enc. Submitted documents

c: Requestor  
(w/o enclosures)