



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.  
The ruling and judgment can be viewed in PDF  
format below.



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 21, 2016

**The ruling you have requested has been amended as a result of litigation and has been attached to this document.**

Ms. Laura Cedillo  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283

OR2016-01542

Dear Ms. Cedillo:

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# 595112 (COSA File No. W100094-101615).

The City of San Antonio (the "city") received a request for information pertaining to a specified contract. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of United Healthcare Insurance Company ("United"). Accordingly, you state, and provide documentation showing, you notified United of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

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<sup>1</sup>We note the city failed to comply with the procedural requirements of section 552.301(b) of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider whether or not the submitted information is excepted from disclosure under the Act, notwithstanding the city's violation of section 552.301 in requesting this decision.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from United explaining why the submitted information should not be released. Therefore, we have no basis to conclude United has a protected proprietary interest in the submitted 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. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest United may have in the information. As no exceptions to disclosure have been raised, the city must release the submitted information.

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 Lay  
Assistant Attorney General  
Open Records Division

PL/bw

Ref: ID# 595112

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Sharon Swan  
Account Vice President  
United Healthcare Insurance Company  
6200 Northwest Parkway  
San Antonio, Texas 78249  
(w/o enclosures)

MAY 11 2017

At 2:36 pm  
Velva L. Price, District Clerk

Cause No. D-1-GN-16-000450

UNITEDHEALTH GROUP, INC.  
*Plaintiff,*  
  
v.  
  
KEN PAXTON, Attorney General of  
Texas, and CITY OF SAN ANTONIO,  
*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF  
  
TRAVIS COUNTY, TEXAS  
  
53rd JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT**

This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552, in which UnitedHealth Group, Inc. ("United") sought to withhold certain information which is in the possession of the City of San Antonio ("the City") from public disclosure. All matters in controversy between Plaintiff, United, and Defendants, Ken Paxton, Attorney General of Texas (Attorney General), and the City arising out of this lawsuit have been resolved by a Settlement Agreement, a copy of which is attached hereto as Exhibit "A", and the parties agree to the entry and filing of this Agreed Final Judgment.

The Attorney General represents to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the Attorney General sent certified letters to the requestor, Mr. Jason Sanchez, on April 20, 2017, informing him of the setting of this matter on the uncontested docket on this date. The requestors were informed of the parties' agreement that the City will withhold the designated portions of the information at issue. The requestor was also informed of his right to intervene in the suit to contest the withholding of this information. Verification of the certified mailing of the letter is attached to this judgment as Exhibit "B."

The requestor has not filed a motion to intervene. Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period to intervene after notice is attempted by the Attorney General.

After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

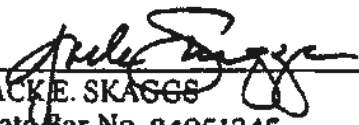
IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED THAT:

1. United, the Attorney General, and the City have agreed that in accordance with the PIA and under the facts presented, one of the documents at issue, specifically the UnitedHealthcare Report on Claim Administration Processing, is excepted from disclosure pursuant to Texas Government Code section 552.104. Pursuant to Texas Government Code section 552.104, the City will withhold this document in its entirety.
2. Attorney General Letter Ruling OR2016-01542 shall not be relied on as a previous determination.
3. All court costs and attorney fees are taxed against the parties incurring the same;
4. All relief not expressly granted is denied; and
5. This Agreed Final Judgment finally disposes of all claims that are the subject of this lawsuit between United, the Attorney General, and the City and is a final judgment.


SIGNED the 11 day of May, 2017.

  
\_\_\_\_\_  
PRESIDING JUDGE


AGREED:

  
\_\_\_\_\_  
JACK E. SKAGGS  
State Bar No. 24051345  
JOHN K. EDWARDS  
State Bar No. 24002040  
Jackson Walker L.L.P.  
1401 McKinney Street, Suite 1900  
Houston, Texas 77010  
Telephone: (713) 752-4200  
Facsimile: (713) 752-4221  
jskaggs@jw.com  
jedwards@jw.com

**ATTORNEY FOR PLAINTIFF  
UNITED HEALTH GROUP, INC.**

  
\_\_\_\_\_  
SHAWN FITZPATRICK  
State Bar No. 00787474  
Fitzpatrick & Kosanovich, PC  
P.O. Box 831121  
San Antonio, Texas 78783-1121  
Telephone: (210) 408-6793  
Facsimile: (210) 408-6797  
skf@titzkoslaw.com

**ATTORNEY FOR DEFENDANT  
THE CITY OF SAN ANTONIO**

  
\_\_\_\_\_  
KIMBERLY L. FUCHS  
State Bar No. 24044140  
Administrative Law Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: (512) 475-4195  
Facsimile: (512) 320-0167  
Kimberly.Fuchs@oag.texas.gov

**ATTORNEY FOR DEFENDANT ATTORNEY GENERAL**

**A**

Cause No. D-1-GN-16-000450

UNITEDHEALTH GROUP, INC.	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
v.	§	53rd JUDICIAL DISTRICT
	§	
KEN PAXTON, in his capacity as	§	
Attorney General of Texas, and CITY OF	§	
SAN ANTONIO, TEXAS,	§	TRAVIS COUNTY, TEXAS
<i>Defendants.</i>		

**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Agreement") is made by and between UnitedHealth Group Incorporated ("United"), Ken Paxton, in his capacity as Attorney General of Texas (the "Attorney General"), and the City of San Antonio, Texas (the "City"). This Agreement is made on the terms set forth below.

**Background**

This case is a challenge to Open Records Letter ruling OR2016-01542. United disputed the ruling, and filed the above-styled lawsuit to preserve its rights under the Texas Public Information Act ("PIA").

United submitted information and briefing to the Attorney General establishing that some of its information is excepted from disclosure under Texas Government Code section 552.104. The City and the Attorney General agree to the settlement.

Texas Government Code section 552.325(c) allows the Attorney General to enter into a settlement pursuant to which the information at issue in this lawsuit may be withheld. The parties wish to resolve this matter without further litigation.

## **Terms**

For good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement agree and stipulate that:

1. United, the Attorney General, and the City have agreed that in accordance with the PIA and under the facts presented, one of the documents at issue, specifically the UnitedHealthcare Report on Claim Administration Processing, is excepted from disclosure pursuant to Texas Government Code section 552.104. Pursuant to Texas Government Code section 552.104, the City will withhold this document in its entirety. The parties hereby agree that the other two documents at issue in this matter shall be produced by the City to the requestor upon entry of the agreed final judgment in this matter.

2. In consideration of the above agreements, United, the City, and the Attorney General further agree to the entry of an agreed final judgment, the form of which has been approved by each party's attorney. The agreed final judgment will be presented to the court for approval, on the uncontested docket, with at least 15 days prior notice to the requestor.

3. The Attorney General agrees that he will also notify the requestor, as required by Tex. Government Code section 552.325(c), of the proposed settlement and of his right to intervene to contest United's right to have the City withhold the information.

4. A final judgment entered in this lawsuit after a requestor intervenes prevails over this Agreement to the extent of any conflict.

5. Each party to this Agreement will bear their own costs, including attorney fees relating to this litigation.

6. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

7. United warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that United has against the Attorney General and/or the City arising out of the matters described in this Agreement.

8. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Attorney General has against United and/or the City arising out of the matters described in this Agreement.


9. The City warrants that its undersigned representative is duly authorized to execute this Agreement on behalf of the City and its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the City has against United and/or the Attorney General arising out of the matters described in this Agreement.

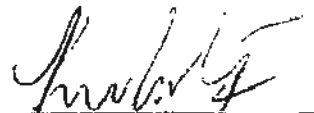
10. This Settlement Agreement may be signed in any number of counterparts or copies or on separate signature pages or by facsimile or email transmission, which when taken together shall be deemed to be an original for all purposes.

11. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties sign this Agreement.

UNITEDHEALTH GROUP  
INCORPORATED

KEN PAXTON, ATTORNEY GENERAL  
OF TEXAS

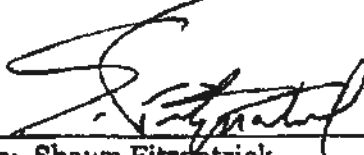
By:   
name: Steven M. Burstein  
title: Senior Associate General Counsel  
UnitedHealth Group Incorporated

By:   
name: Kimberly Fuchs  
title: Assistant Attorney General  
Administrative Law Division

Date: 1/31/17

Date: 4/2/17

CITY OF SAN ANTONIO

By:   
name: Shawn Fitzpatrick  
title: Fitzpatrick & Kosanovich, PC  
Date: 4/15/2017