



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

October 31, 2017

Mr. Andrew Devine
Senior Associate Attorney
Parkland Health & Hospital System
5200 Harry Hines Boulevard
Dallas, Texas 75235

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

OR2017-24869

Dear Mr. Devine:

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# 682462 (DCHD #17-49).

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "system") received a request for information pertaining to a specified RFP. Although the system takes no position as to whether the submitted information is excepted under the Act, the system informs us release of this information may implicate the proprietary interests of HealthTrust; Intalere; Premier Healthcare Alliance, LP; and Vizient Supply, LLC. Accordingly, the system states, and provides documentation showing, it notified the third parties of the request for information and of their right to submit arguments to this office as to why the information at issue should not be released. *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 received comments from HealthTrust and Intalere. We have considered the submitted arguments and reviewed the submitted information.

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) of the Government Code 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 any of the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any third party 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the system may not withhold the submitted information on the basis of any proprietary interest any of the remaining third parties may have in the information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). In considering whether a private third party may assert this exception, the supreme court reasoned because section 552.305(a) of the Government Code includes section 552.104 as an example of an exception that involves a third party's property interest, a private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at *9. HealthTrust and Intalere each state they have competitors. In addition, HealthTrust and Intalere state release of their information at issue would provide an advantage to their competitors. After review of the information at issue and consideration of the arguments, we find HealthTrust and Intalere have each established the release of their information at issue would give advantage to a competitor or bidder. Thus, we conclude the system may withhold the information we have indicated under section 552.104(a) of the Government Code.¹ The remaining submitted 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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

¹As our ruling is dispositive, we need not address the remaining arguments against disclosure of 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 cursive script that reads "Paigelay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/gw

Ref: ID# 682462

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

cc: 4 Third Parties
(w/o enclosures)

Cause No. D-1-GN-17-006264

| | | |
|-----------------------|---|--------------------------|
| PREMIER HEALTHCARE | § | IN THE DISTRICT COURT OF |
| ALLIANCE, L.P., | § | |
| <i>Plaintiff,</i> | § | |
| | § | |
| v. | § | TRAVIS COUNTY, TEXAS |
| | § | |
| KEN PAXTON, ATTORNEY | § | |
| GENERAL FOR THE STATE | § | |
| OF TEXAS, | § | |
| <i>Defendant.</i> | § | 345TH JUDICIAL DISTRICT |

AGREED FINAL ORDER OF DISMISSAL

This is a cause of action under the Public Information Act (PIA), Texas Government Code chapter 552. Plaintiff Premier Healthcare Alliance, L.P. (Premier) and Defendant Ken Paxton, Attorney General for the State of Texas, agree to dismiss this suit pursuant to PIA section 552.327 on the ground that the requestor has abandoned the request for information. *See* Tex. Gov't Code § 552.327. A court may dismiss a PIA suit under section 552.327 when all parties agree to dismissal and the Attorney General determines and represents to the Court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request. *Id.* The Attorney General represents to the Court that the requestor, Kristin Langrill, has abandoned her request for information made to Dallas County Hospital District d/b/a Parkland Health and Hospital System (Parkland) which included documents and information pertaining to Premier.

Accordingly, Parkland is not required to release the requested information subject to disclosure in Letter Ruling OR2017-24869 and shall not release it. The Court is of the opinion that entry of an agreed final order of dismissal is appropriate.

It is THEREFORE, ORDERED, ADJUDGED and DECREED that this cause is DISMISSED in all respects;

All costs of the court and attorney fees are taxed against the parties incurring the same;

All relief not expressly granted is denied; and

This order disposes of all claims between the parties and is final.

Signed this 28th day of August 2020.



Jan Soifer, Judge Presiding

AGREED AS TO FORM AND SUBSTANCE:

Elizabeth Ross Hadley
ELIZABETH ROSS HADLEY
State Bar No. 24063085
GREENBERG TRAURIG, LLP
300 West 6th Street, Suite 2050
Austin, Texas 78701
Telephone: (512) 320-7200
Facsimile: (512) 320-7210
hadleye@gtlaw.com

ATTORNEY FOR PLAINTIFF
PREMIER HEALTHCARE
ALLIANCE, L.P.

Veena Mohan
VEENA MOHAN
State Bar No. 24043765
Assistant Attorney General
Administrative Law Division
Office of the Attorney General of Texas
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 936-0535
Facsimile: (512) 320-0167
Veena.Mohan@oag.texas.gov

ATTORNEY FOR DEFENDANT
ATTORNEY GENERAL OF TEXAS