



June 21, 1999

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-1693

Dear Mr. Steiner:

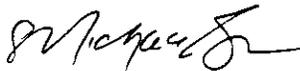
You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125071.

The City of Austin (the "city") received a request for information relating to the city's pharmaceutical benefit management plan. You state that you have released most of the responsive documents. You claim, however, that certain responsive information which you have withheld implicates the proprietary interests of Eckherd Health Services, and may be excepted from public disclosure by sections 552.101 or 552.110 of the Government Code. You have supplied the subject information to our office for review. The city asserts no position on the applicability of any exception to this information.

Pursuant to section 552.305 of the Government Code, this office informed Eckherd Health Services of the request and provided it the opportunity to claim the exceptions to disclosure it contends apply to the requested information, together with argument in support of apply those exceptions. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Government Code section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions in certain circumstances). The notification was posted April 30, 1999, and stated that if this third party did not respond within 14 days of receipt of the notice, this office will assume that it has no privacy or property interest in the requested information. Eckherd Health Services did not respond. Therefore, we have no basis for determining that the subject information is excepted from disclosure and it must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB\ch

Ref: ID# 125071

cc: Ms. Rose Santos
1090 Vermont Ave. N.W. Ste 800
Washington, D.C. 20005
(w/o enclosures)

Mr. Bill Jardine
Eckherd Health Services
620 Epsilon Drive
Pittsburgh, Pennsylvania 15238
(w/o enclosures)