



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 25, 2016

Ms. Jennifer Burnett
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2016-12014

Dear Ms. Burnett:

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# 611556 (OGC# 168151).

The University of Texas Health Science Center at Houston (the "university") received a request for five categories of information, including documents indicating a named individual's faculty membership on various medical committees and Memorial Hermann Hospital System's ("Memorial Hermann") Board of Directors.¹ You inform us you released some of the requested information.² Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted

¹You state the university sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or over-broad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

²In your letter to this office dated March 28, 2016, you inform us you released this information to the requestor and withdrew this portion of your request for a ruling.

information may implicate the proprietary interests of Memorial Hermann.³ Accordingly, you state, and provide documentation showing, you notified Memorial Hermann 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. *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.

Initially, you state some of the submitted information, which you have marked, is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the university is not required to release such information in response to this request.

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 Memorial Hermann explaining why the responsive information should not be released. Therefore, we have no basis to conclude Memorial Hermann 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 university may not withhold the responsive information on the basis of any proprietary interest Memorial Hermann may have in the information. As no exceptions to disclosure have been raised, the university must release the responsive 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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

³The university acknowledges, and we agree, the university did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because third-party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third-party interests. *See id.* §§ 552.007, .302, .352.

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 black ink that reads "Paige Lay". The signature is written in a cursive, flowing style.

Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 611556

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)