



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2012

Mr. Brooks Landgraf
For Ector County Hospital District
Shafer, Davis, O'Leary & Stoker
P.O. Drawer 1552
Odessa, Texas 79760-1552

OR2012-14135

Dear Mr. Landgraf:

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# 464151.

The Ector County Hospital District d/b/a Medical Center Health System (the "district") received a request for the most recent pharmaceutical distribution agreement. Although you take no position as to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of Morris & Dickson Co., LLC ("Morris"). Thus, pursuant to section 552.305 of the Government Code, you state you notified Morris of the request and of its right to submit arguments to this office as to why its information should not be released. Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Morris. Thus, Morris has failed to demonstrate it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 district may not withhold the submitted information on the basis of any proprietary interest Morris may have in the submitted information. As no exceptions to disclosure have been raised, the 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 464151

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Dale Kelly
Morris & Dickson Co.
410 Kay Lane
Shreveport, Louisiana 71115
(w/o enclosures)