

Supreme Court of Texas
June 19, 2015

Boeing Co. v. Paxton

No. 12-1007

Case Summary written by Allison Grayson, Online Edition Editor.

JUSTICE DEVINE delivered the opinion of the Court, in which CHIEF JUSTICE HECHT, JUSTICE GREEN, JUSTICE WILLETT, JUSTICE GUZMAN, JUSTICE LEHRMANN, and JUSTICE BROWN joined.

In 1995, Boeing chose Kelly Air Force Base in San Antonio as its new “commercial refit facility for servicing heavy-lift military aircraft.” In response, the City of San Antonio created the Greater Kelly Development Authority as a means of facilitating Kelly Air Force Base’s transition. The Greater Kelly Development Authority was “later renamed the Port Authority of San Antonio” (the Port).

In 1998, Boeing leased property at Kelly Air Force Base improved by the Port using funds borrowed from the city. The lease made Boeing the Port’s largest tenant.

After completion of the lease, Robert Silvas, a former Boeing employee, “submitted a Public Information Act (PIA) request to the Port for various Boeing corporate information, including the lease.” After filing a redacted version of the information requested by Silvas, Boeing filed objections with the Attorney General for the redacted material. In its objections, Boeing asserted “that the information withheld [was] competitively sensitive information regarding its overhead costs at Kelly that would give advantage to its competitors.”

The Attorney General concluded that none of the information Boeing sought to redact was exempt under the Public Information Act. Further, the trial court agreed with the Attorney General, ordering the Port to provide the redacted information to Silvas. The court of appeals affirmed the trial court’s decision.

Issues: Does the PIA require “a governmental body to raise and argue any applicable disclosure exception to the Attorney General as a prerequisite to judicial review?” Further, is the withheld information “competitively sensitive information . . . that would give advantage” to Boeing’s competitors, and therefore subject to exemption under the PIA?

While the Court stated that the PIA generally does require a governmental body to raise specific exceptions prior to judicial review, the rule does not apply “when the requested information implicates another person’s privacy or property interests.” Additionally, when a third party’s interests are involved, a governmental body need not raise exceptions regarding the interests of another person before the Attorney General. Therefore, “the Port was not required to raise the exception before the Attorney General” because either the government or the private party may invoke an exception to protect its privacy and property interests.

In addition to the Court’s discussion on exceptions to the PIA, the Court acknowledged the possibility for Boeing’s competitors to use the redacted information in question. The Court determined that the “undisputed evidence [allowed] only a single logical inference—that the information at issue ‘if released would give advantage to a competitor or bidder.’” Further, the Court held that Boeing had the right to protect its privacy and property interests, and therefore, reversed the court of appeals’ judgment.

JUSTICE BOYD, dissenting.

Although Justice Boyd agreed that “persons who are not governmental bodies may assert section 552.104 of the Texas Public Information Act as an exception to mandatory disclosure of information in which they have a privacy or property interest,” he argued that Boeing did not “conclusively [establish] that the exception applies to the information at issue in this case.”

Explaining his position, Justice Boyd stated that Boeing’s evidence in support of its arguments was “too hypothetical and speculative to establish that the release of its information” would give any advantage to its competitors.” Further, he urged that a party seeking to utilize the exception must show a specific competitor who would gain an advantage through such information.