

Prather on Public Records and State Fair of Texas

By Laura Lee Prather | November 27, 2017

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A report for the nonprofit Freedom of Information Foundation of Texas quoted Haynes Boone Partner [Laura Lee Prather](#) on a lawsuit over whether State Fair of Texas records must be released under the Texas Public Information Act.

According to the [report](#), Austin attorney Jennifer Riggs, who is seeking years of records from the fair on behalf of an unnamed third party, maintains that the fair receives financial support from the City of Dallas and is therefore a government entity subject to disclosure requirements under the Public Information Act. The State Fair's attorneys say the non-profit institution, though it has a contract with Dallas, is not financially supported by the city and does not have to reveal its records.

The fair responded to Riggs' 2015 records request by suing her law firm instead of following standard procedure required under the TPIA of governmental entities – seeking a ruling by the attorney general's office, if the entity wishes to withhold records. ... Riggs prevailed in an early round in 2015 when State District Judge Staci Williams granted her motion to dismiss the suit and ordered the fair to pay a total of \$77,174 in attorney fees and sanctions. The ruling was overturned by an appeals court just over a year later, but the fair served notice of a nonsuit, effectively abandoning its claims, while leaving the door open to future action.

In December of 2016, Riggs filed a lawsuit against the fair to seek a court declaration that the institution is subject to the open records act. But on Oct. 18 of this year, while the fair was still in its 2017 run, State District Judge Tonya Parker granted the fair's motion to dismiss the suit.

The judge also awarded \$208,206 to the fair in attorney's fees, expenses and sanctions, as well as a total of \$90,000 in "conditional" appellate attorney fees if the case reaches arguments in the Texas Supreme Court. The \$161,239 that Parker awarded in attorney fees constituted only about a third of the \$435,495 sought by the fair. (Riggs plans to appeal.) ...

"It's a tremendous threat to our democracy," said Prather, a First Amendment lawyer and co-chair of the legislative committee of the Freedom of Information Foundation of Texas. "We've got a situation where a requestor is asking for documents that they believe that a government entity holds. And then they are put on the receiving end of a lawsuit and subjected to the fees from the entity. And that fundamentally turns the Texas Public Information Act on its head," she added. "I'm concerned because we have not in recent history seen very favorable decisions from this Texas Supreme Court when it comes to Texas Public Information Act cases." ...

Excerpted from foift.org. To read the full article, click [here](#).