



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 3, 1992

Mr. John E. Rapier  
Town Attorney  
P. O. Box 750  
100 Belmont Drive  
Allen, Texas 75002

OR92-1

Dear Mr. Rapier:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14413.

You have received a request for information relating to the City of McKinney Airport. Specifically, the requestor seeks the following information:

How much of our tax money has been spent to date fighting the airport. Please include travel expenses, fees, printing, mailing and other related expenses.

How much of our tax money is budgeted for future spending in 1991, 1992, and beyond?

I would also like to have a copy of any agreements between attorneys or legal firms and the City of Fairview for the expressed purpose of fighting the City of McKinney Airport expansion.

You claim the requested information is excepted from required public disclosure by the attorney-client privilege and by section 3(a)(3), the litigation exception.

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

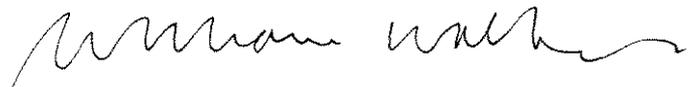
information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4.

You have submitted to us for review a copy of an engagement letter from a law firm that represents the Town of Fairview. The contents of this letter clearly indicate that litigation involving the Town of Fairview may be reasonably anticipated. Having reviewed the documents submitted to us, we conclude that the requested information relates to that litigation and thus may be withheld from required public disclosure by section 3(a)(3) of the Open Records Act. Please note that this ruling applies only for the duration of the litigation at issue and only for information which is not disclosed by the discovery process or by court order.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-1.

Yours very truly,



William Walker  
Assistant Attorney General  
Opinion Committee

WW/GK/lcd

Ref.: ID# 14413

cc: Mr. Donald R. Bigham  
910 Circle In The Woods  
McKinney, Texas 75069