



Office of the Attorney General

State of Texas

May 22, 1992

DAN MORALES

ATTORNEY GENERAL

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P. O. Box 469002  
Garland, Texas 75046-9002

OR92-268

Dear Mr. Dempsey:

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# 14966.

You have received a request for all information in the possession of the City of Garland (the city) relating to a certain property. Specifically, the requestor seeks six categories of information, including building permits, information relating to building code violations, fire marshall's or fire inspector's reports, information in the possession of a certain arson investigator, and information relating to zoning ordinances. Although you do not object to release of categories numbered 1 and 6 of the requested information, you claim that the remaining information is excepted from required public disclosure by section 3(a)(3) of the Open Records Act.

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.

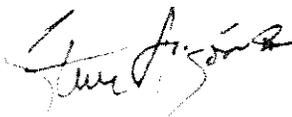
The city has received notice of a claim for damages arising out of its alleged acts and omissions in connection with the fighting of a fire. You have submitted to us for review the letter written to you from the attorney representing the claimant. The attorney states:

My investigation into the facts surrounding the fire reveals that the City of Garland is liable to my client because of negligence in the manner in which this fire was fought by members of the fire department of the City of Garland.

The city denied the claim. We conclude, then, that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we agree with your determination that the requested information relates to the anticipated litigation and may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only for the duration of the litigation and to the documents at issue here.

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 OR92-268.

Yours very truly,



Steve Aragon  
Assistant Attorney General  
Opinion Committee

SA/GK/lmm

Enclosures: Submitted documents

Ref.: ID# 14966

cc: Mr. Robert L. Harris  
3700 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201