



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 3, 1992

Mr. Richard D. Monroe  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR92-449

Dear Mr. Monroe:

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# 16611.

You have received a request for information relating to an accident that occurred November 30, 1990, on FM 3396 in Kaufman County. Specifically, the requestor seeks "the name, telephone number, and address of the company which actually constructed this roadway, as well as the name, telephone number, and address of each entity responsible for designing this roadway . . . [including] photocopies of the work proposed and the location" of the work proposed for FM 3396. In addition, the requestor is purchasing a copy of the Texas Manual on Uniform Traffic Control Devices. Except for the manual, you seek to withhold the requested information from required public disclosure under 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

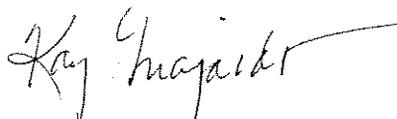
information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, 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 Department of Transportation has received notice of a claim against the State of Texas for damages caused by negligence on the part of the state in connection with the accident pursuant to the Texas Tort Claims Act. Civ. Prac. & Rem. Code ch. 101. You have submitted the notice of claim for our review. On the basis of this notice of claim, we conclude that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we further conclude 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 OR92-449.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/GCK/lmm

Ref.: ID# 16611

cc: Mr. Ray L. Rhymes  
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