



Office of the Attorney General  
State of Texas

October 14, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Mike Driscoll  
County Attorney  
Harris County  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR92-601

Dear Mr. Driscoll:

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# 17254.

Harris County has received a request for information concerning the amount of attorneys' fees a particular law firm has billed the county for its representation in a pending lawsuit against the county. Your office has forwarded for our review various requests for payment submitted by the law firm to the county auditor and advised us that Harris County has counterclaimed to recover its costs and attorneys' fees in the lawsuit. Consequently, your office asserts that the documents submitted to us for review may be withheld pursuant to section 3(a)(3) of the 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 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). We have examined the documents submitted to us for review, and we agree with your determination that they directly relate to the pending litigation. Thus, you may withhold the documents pursuant to section 3(a)(3) at this time. We note, however, that if the records become available to the opposing party in the pending litigation, by discovery or otherwise, they will no longer be within the section 3(a)(3) exception. Open Records Decision No. 349 (1982). Moreover, the protection of section 3(a)(3) ordinarily ceases once the litigation comes to an end. *See generally* Open Records Decision No. 245 (1980).

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 OR92-601.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/lmm

Ref.: ID# 17254

Enclosure: Submitted documents

cc: Mr. Arthur Shaw  
P. O. Box 52341  
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(w/o enclosures)

Ms. Mercedes Leal  
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Harris County Auditor  
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