



The Attorney General of Texas

December 31, 1982

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An Equal Opportunity/
Affirmative Action Employer

Ms. Joy Fitzgerald
Acting Administrator
Housing Authority
City of Houston
P. O. Box 2971
Houston, Texas 77001

Open Records Decision No. 346

Re: Correspondence between
housing authority and contractor

Dear Ms. Fitzgerald:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of correspondence between the Houston Housing Authority and the one of its contractors.

In 1981, the Houston Housing Authority contracted with the owner of two housing projects to provide housing assistance payments to project residents. A dispute has arisen between the authority and the contractor; the authority has, as a result, withheld payments from the contractor. You have received a request for copies of correspondence between the contractor and the authority, as well as for other related material. You contend that the information is excepted from disclosure by section 3(a)(3) of the Open Records Act as "information relating to litigation... to which the state or political subdivision is, or may be, a party."

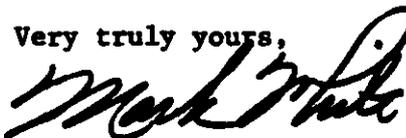
By letter of July 28, 1982, the attorney for the contractor made a demand for the disputed payments and informed the authority that "[f]urther legal action will be necessary if suitable payments are not forthcoming very promptly." The city attorney of Houston has determined, on the basis of this notice, that litigation is reasonably likely, that the requested information is relevant to the litigation, and that, as a result, it should be withheld from disclosure.

In our opinion, this determination is reasonable. We have frequently said that:

for the section 3(a)(3) exception to apply, litigation must be pending or reasonably anticipated in regard to a specific matter as opposed to a remote possibility.

Open Records Decision No. 289 (1981). See also, Open Records Decision Nos. 311 (1982); 139 (1976). This written threat by the attorney to take "further legal action" when considered together with correspondence indicating a real dispute between the parties constitutes, in our view, information sufficient for the authority and its attorney to conclude that litigation is "reasonably anticipated" in regard to the specific matter of the disputed contracts. Accordingly, it is our decision that the information at issue here is excepted from disclosure at this time under section 3(a)(3) of the Open Records Act.

Very truly yours,



MARK WHITE
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APPROVED:
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