



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

February 28, 1990

Mr. Kelly M. Massad
Legal Counsel
Dallas-Fort Worth
International Airport
P.O. Drawer DFW
Dallas/Fort Worth Airport, Texas 75261 OR90-090

Dear Mr. Massad:

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# 8476.

The Dallas-Fort Worth Airport Board received an open records request for various documents, including contracts and reports relating to two contracts between the board and two asbestos abatement companies. The board has made no objection to the release of most of the requested material, but seeks to withhold two consultant engineers' detailed estimates for asbestos removal. The board is currently in dispute with the requestor concerning its contract for asbestos removal. Although no formal claim has been filed, the board seeks to withhold these estimates under section 3(a)(3) of the Open Records Act because it believes that one of the companies involved will attempt to seek additional compensation for the asbestos removal, and these estimates would directly relate to the resolution or defense of any such claim.

Section 3(a)(3) of the Open Records Act, known as the litigation exception, excepts from required public disclosure:

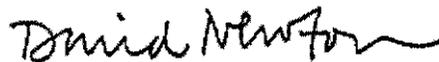
information relating to litigation of a civil or criminal nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a

party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

As the board is currently involved in a dispute with one of the asbestos abatement companies, we conclude that litigation may reasonably be anticipated. The information at issue would clearly be implicated in any suit on a contract involving the costs of asbestos removal. Therefore, we conclude that the engineers' cost estimates are protected from disclosure by section 3(a)(3). See Open Records Decision Nos. 395 (1983); 323 (1982). They may be withheld.

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 OR90-090.

Yours very truly,



David A. Newton
Assistant Attorney General
Opinion Committee

DAN/le

Ref.: ID# 8476, 8690

Enclosure: Open Records Decision Nos. 323, 395
Documents Sent

cc: Robert G. Watt
Watt, Tieder, Killian & Hoffar
7929 Westpark Drive, Suite 400
McLean, Virginia 22102