



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

June 12, 1991

Ms. Marcia Johnson  
General Counsel  
Housing Authority of  
the City of Houston  
P.O. Box 2971  
Houston, Texas 77252-2971

OR91-277

Dear Ms. Johnson:

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# 12403.

The Housing Authority for the City of Houston (HACH) received an open records request for

- 1) an accounting of all legal expenses HACH had incurred and estimates of the value of staff time and resources committed in connection with a pending lawsuit in federal court;
- 2) a report that the judge in the lawsuit required HACH to file (an accounting of the vacancy rates of Allen Parkway Village, a housing project); and
- 3) an accounting of work performed in the Allen Parkway Village on make-readies.

You contend the requested information comes under the protection of section 3(a)(3) of the Open Records Act.

To secure the protection of section 3(a)(3), a governmental body must first demonstrate that a judicial or quasi-judicial proceeding is pending or reasonably anticipated. Open Records Decision Nos. 452 (1986); 360 (1983). Further, the governmental body's attorney must show that the requested material "relates" to the litigation. Open Records Decision No. 551 (1990).

This office has reviewed the initial pleadings and court orders pertaining to the lawsuit and has determined that the information listed in items 2 and 3 listed above clearly "relates" to the legal issues of this lawsuit. This information may therefore be withheld, but only until the litigation is no longer pending, *see* Open Records Decision No. 350 (1982), or until the opposing parties in the lawsuit gain access to the information through discovery or otherwise. *See* Open Records Decision Nos. 349, 320 (1982).

You have not sent us copies of the documents that come within the scope of item 1 listed above. We can rule as a matter of law that the dollar amounts of legal and other expenses that HACH has incurred in connection with the lawsuit are only tangentially related to the issues in litigation and therefore do not come under the protection of section 3(a)(3). We are unable to determine, however, until you submit these documents for our review, whether other information you have that is responsive to the item 1 request contains material that comes under the protection of section 3(a)(3).

If you intend to withhold this other item 1 information, section 7 of the Open Records Act requires you to submit these documents to us. If the documents are numerous and repetitive, you may submit representative samples. You must also mark the documents to show clearly which specific portions of the documents come under the protection of section 3(a)(3). We must receive the information within 14 days of the date of this ruling, or the section 3(a)(3) protection for these documents will be deemed waived. In any case, the requested dollar amounts of legal and other expenses must be released at this time.

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 OR91-277.

Yours very truly,



William Walker  
Assistant Attorney General  
Opinion Committee

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WW/RWP/lb

Ref.: ID# 12403

cc: Mr. James Robinson  
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Houston Chronicle  
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