



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1991

Ray R. Ortiz
Assistant City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR91-339

Dear Mr. Ortiz:

You ask, on behalf of the city of Victoria, 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# 11933.

We have considered the exceptions you claimed, and have reviewed the documents at issue. You have asserted that the requested information may be withheld under section 3(a)(3) of the Open Records Act. That section protects

(3) 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;

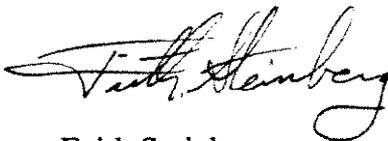
This office has explained that section 3(a)(3) "protects a governmental body's position in litigation, in part, by imposing the necessity that the adverse party develop information through the normal process of discovery." Open Records Decision No. 551 (1990). For this reason, application of the litigation exception to information related to a particular lawsuit is limited by various circumstances. The exception only applies when litigation is reasonably anticipated or actually pending; in the latter case, the exception will be available only to the extent that adverse parties have not had access to the information through discovery or other means. *Id.*

From the information included in your latest correspondence with us we have determined that litigation to which the city, or one of its employees by reason of his

employment, may be a party is reasonably anticipated here. You may therefore withhold the information requested under section 3(a)(3). As we have resolved your request under section 3(a)(3), we need not address the other exceptions you have raised.

Because 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 OR91-339.

Yours very truly,



Faith Steinberg
Assistant Attorney General
Opinion Committee

FS/lb

Ref.: ID# 11933

Enclosure: Open Records Decision No. 551 (1990)

cc: Mr. Jim Bishop, Managing Editor
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