



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 29, 1991

Mr. Robert E. Diaz
Assitant City Attorney
City of Arlington
P.O.Box 1065
Arlington, Texas 76004-1065

OR91-343

Dear Mr. Diaz

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# 12964.

The City of Arlington has received a request for records concerning a fire that occurred in late June of last year. You assert that the requested information may be withheld on the basis of Section 3(a)(3) of the Open Records Act. We agree.

Section 3(a)(3) excepts from required public disclosure

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;

You have forwarded correspondence that the city has recently received from the attorney representing the person who requested the information in issue here. That correspondence indicates that the requestor retained the attorney to represent him in his claim against the city for damages that he incurred as a result of the fire. One of the attorney's letters presents the requestor's claim for \$168,000 and attorney's fees and lists various causes of actions that the requestor thinks that the city's elected officials and employees are or may be liable under as a result of the fire. That letter concludes with a statement that if no substantial and reasonable

settlement offer is received by June 25, 1991, the attorney will advise the requestor to proceed with all legal recourses and remedies. We are advised that the city subsequently rejected the claim. We also are advised that no suit has yet been filed against the city. However, section 3(a)(3) applies if litigation is reasonably anticipated as well as currently pending. See Open Records Decision No. 551 (1990)(copy enclosed). We agree with the assertion that litigation against the city is reasonably anticipated in this case since the attorney's letter to the city presenting the requestor's claim asserts the city's liability under various legal theories and includes a statement by the attorney that he would recommend to the requestor that he proceed with all legal recourses and remedies. Thus, you may withhold the requested information pursuant to section 3(a)(3). See Open Records Decision No. 551 at 4.

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 OR91-343.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lb

Ref.: ID# 12964

Enclosure: documents; Open Records Decision No. 551

cc: Tommy Bower
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