



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

August 13, 1991

Mr. G. Michael Gruber
Jackson & Walker
901 Main Street, Suite 6000
Dallas, Texas 75202-3797

OR91-369

Dear Mr. Gruber:

On behalf of the Texas High-Speed Rail Authority, 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# 13020.

The Texas High-Speed Rail Authority (the authority) received two open records requests from an attorney representing Southwest Airlines. The first request is for "any documents reflecting correspondence or communication with Texas TGV, its affiliates or representatives and a copy of any drafts, proposals, memoranda, comments, or other documents referring to or relating to the proposed franchise agreement between the Authority and Texas TGV." The requestor seeks in his second request billing statements from a named individual. You have informed this office that the authority possesses no such documents as requested. It is well-established that the act does not require a governmental body to prepare new information in response to an open records request. Open Records Decision No. 342 (1982). Consequently the authority need not comply with these portions of the request.

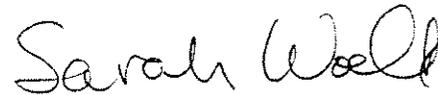
The second open records request also asks for "all documents . . . showing the billing to the Authority by the Jackson & Walker law firm." You state that you have released to the requestor all portions of the billing statements except those that reveal the itemized services for which the authority was charged. You contend that the information that you have withheld comes under the protection of sections 3(a)(1), 3(a)(3), 3(a)(7), and 3(a)(11).

To secure the protection of section 3(a)(3), a governmental body must demonstrate that the requested records "relate" to pending or reasonably anticipated litigation. Open Records Decision No. 551 (1990). Based on your representation that Southwest Airlines filed suit against the authority and that litigation is

still pending, you may withhold the itemized information pursuant to section 3(a)(3). Because this office has determined that the itemized portions of the statement are protected by section 3(a)(3), we need not at this time consider the applicability of the other exceptions that you raise.

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 OR91-369.

Yours very truly,



Sarah Woelk

Assistant Attorney General
Opinion Committee

SW/RWP/lb

Ref.: ID# 13020
ID# 13077

Enclosures: Submitted documents

cc: C. Robert Heath
Bickerstaff, Heath & Smiley
San Jacinto Center, Suite 1800
98 San Jacinto Boulevard
Austin, Texas 78701-4039