



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 21, 1991

Ms. Cathy L. Meyer  
Assistant City Attorney  
City of Irving  
P. O. Box 152288  
Irving, Texas 75015-2288

OR91-585

Dear Ms. Meyer:

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# 14096.

You have received a request for information relating to an investigation into alleged water pollution concerning a specific company, property, and individual. Specifically, the requestor seeks:

copies of all police reports, all information contained in the Fire Department and/or Fire Marshall's Office, the City Health Department, Safety and Risk Management Department, Environmental Services Department, Water Pollution Department or any other department of the City of Irving which handles environmental issues; including, but not limited to, inspection reports, fines, citations, communications (letters and phone memorandum) and any interoffice communications regarding the [company, property, and individual].

You advise us that you have released much of the information requested except for information which is related to pending litigation involving the named company,

property, and individual; information which would identify or tend to identify a number of informers; and information protected by the attorney-client privilege.

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

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.

Open Records Decision No. 551 (1990) held that section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Section 3(a)(3) requires parties to a lawsuit to seek relevant information through the normal process of discovery. *Id.*

Although you do not expressly claim a section 3(a)(3) exception, it is obvious from the information submitted to us that you wish to withhold the information from required public disclosure as information which relates to pending litigation. Accordingly, you advise us that the city is a party to litigation which relates to the requested information. We conclude that litigation is pending. Furthermore, having reviewed the documents submitted to us, we conclude that the report relates to that litigation and thus may be withheld from required public disclosure by section 3(a)(3) of the Open Records Act. Please note that this ruling applies only for the duration of the litigation at issue and only for information which is not disclosed by the discovery process or by court order. Because we resolve your request under section 3(a)(3), we need not address the applicability of section 3(a)(1) 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 OR91-585.

Yours very truly,



Kym Oltrogge  
Assistant Attorney General  
Opinion Committee

KO/GK/lcd

Ref.: ID# 14096

cc: Ms. Joy V. Springer, P.E.  
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