



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 15, 1992

Ms. Mercedes Leal  
Assistant County Attorney  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR92-17

Dear Ms. Leal:

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# 14326.

You have received a request for copies of documents made available to the Harris County Commissioners Court prior to a certain grievance appeal hearing conducted before it. You advise us that the grievance hearing before the county commissioners court took place in a closed executive session pursuant to section 2(g) of the Open Meetings Act, article 6252-17, V.T.C.S. You claim the requested information is excepted from required public disclosure by sections 3(a)(1) and 3(a)(3) of the Open Records Act.

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.

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.

Open Records Decision No. 551 (1990). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4.

You advise us that the requestor has exhausted his administrative remedies with the Harris County employee grievance process and that the next "logical step" is to pursue his complaint in court. Before a meeting of the county commissioners court, the employee's attorney asked that the court issue an order reinstating his client with backpay. Moreover, the attorney indicates that failure of the court to do so might result in "costly litigation." On the basis of these statements, we conclude that litigation may be reasonably anticipated. Further, we conclude that the requested information relates to the anticipated litigation and, unless disclosed through discovery or by court order, may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note, however, that this ruling applies only for the duration of the litigation and only to the records at issue here. As we resolve this issue 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 OR92-17.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GK/lcd

Ref.: ID# 14326

cc: Mr. Eric S. Hagstette  
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