



Office of the Attorney General
State of Texas

January 6, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Joel A. Howard
Gibson, Ochsner & Adkins, L.L.P.
500 First National Bank Building
Eighth and Taylor
Amarillo, Texas 79101

OR93-006

Dear Mr. Howard:

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# 17614.

The Amarillo Hospital District (the "hospital district"), which you represent, has received two requests for information relating to its proposed purchase of St. Anthony's Hospital. One of the requestors seeks:

access to all information pertaining to:

Environmental, structural and [] other physical inspection reports concerning St. Anthony's Hospital produced for and contracted for by Northwest Texas Hospital and/or the Amarillo Hospital District pursuant to the proposed purchase of St. Anthony's Hospital.

The other requestor seeks numerous categories of information, including, *inter alia*, information relating to the hospital district's negotiations for the purchase of St. Anthony's Hospital, statistics relating to indigent care provided by the hospital district, information relating to the hospital district's legal representation in connection with the purchase of St. Anthony's Hospital, the financial position of the hospital district, certain attorney fee bill statements, minutes of the Amarillo City Commission, minutes of the hospital district board of managers¹, certain contracts and drafts of contracts, and information relating to environmental assessments and audits. You advise us that some of the requested information has been made available to the requestor. You claim, however, that the remaining information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(5), and 3(a)(11) of the Open Records Act.

¹Public access to the minutes of governmental bodies subject to the Open Meetings Act is governed by the provisions of that act. See V.T.C.S. art. 6252-17, §§ 3A(h); 3B.

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.

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).

You advise us that litigation is pending against the hospital district in *Cunyus v. City of Amarillo & Amarillo Hosp. Dist.*, No. 77,739-E (Dist. Ct. of Potter County, 108th Judicial Dist. of Texas, filed Sept. 25, 1992). We accept your determination that the requested information relates to the pending litigation. Accordingly, we conclude that the requested information may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 3(a)(5), and 3(a)(11) 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 OR93-006.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/GCK/lmm

Ref.: ID# 17614

cc: Mr. Larry Cunyus
c/o Robert L. Templeton & Associates, P.C.
1313 TeamBank Building
Amarillo, Texas 79101-2337

Mr. Dorsey Wilmarth
Amarillo Globe-News
P. O. Box 2091
Amarillo, Texas 79166