



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 2, 1993

Mr. Alan C. Wayland  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR93-410

Dear Mr. Wayland:

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# 19583.

The City of Garland received an open records request for certain attorney invoices that you contend may be withheld from the public pursuant to section 3(a)(3) of the Open Records Act. The requestor has informed this office that she "do[es] not wish to see anything except the dollar amounts" in the invoices. You explain that the requested invoices directly pertain to a judgment in which the city was awarded \$30,000 in attorney fees and that this judgment is currently being appealed in district court.

To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 3(a)(3); the requested records may therefore be withheld.<sup>1</sup>

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information.

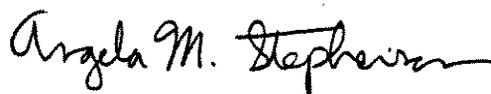
---

<sup>1</sup>The requestor contends that the city has set a "precedent" by its previous release to the public of attorney fees from other attorney invoices. Although the Open Records Act prohibits the selective disclosure of public records, *see* V.T.C.S. art. 6252-17a, § 14(a), this proscription applies only to specific records once they have been released. Assuming the records at issue have not previously been released, there is no precedent with regard to these records.

Open Records Decision Nos. 349, 320 (1982). If the opposing party in the litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). We also note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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 contact our office.

Yours very truly,



Angela M. Stepherson  
Assistant Attorney General  
Opinion Committee

AMS/RWP/jmn

Ref.: ID# 19583  
ID# 19818  
ID# 19878  
ID# 19905

Enclosures: Submitted documents

cc: Ms. Shirley Roberts  
1843 East Brand  
Garland, Texas 75044  
(w/o enclosures)