

This office has held that litigation is reasonably anticipated when an open records request was sent by an attorney who demanded damages for his client and threatened suit if such was not forthcoming. Open Records Decision No. 551 (1990) at 2. In Open Records Decision No. 555 (1990) at 3, this office stated that "because steps toward litigation have been taken, *i.e.*, the hiring of an attorney and the assertions of that attorney of an intent to sue, litigation is reasonably anticipated." On the other hand, the mere fact that a requestor publicly states on more than one occasion an intent to sue is not sufficient to show that litigation is reasonably anticipated.

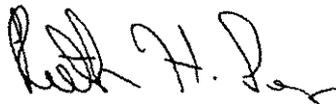
The department has provided no information showing that the requestor has ever *threatened suit, orally or in writing, or take steps toward litigation such as hiring an attorney.* In Open Records Decision No. 452 (1986) at 4, this office stated:

Litigation cannot be regarded as "reasonably anticipated" unless there is more than a "mere chance" of it -- unless, in other words, we have concrete evidence showing that the claim that litigation may ensue is more than mere conjecture. Whether litigation is reasonably anticipated must be determined on a case-by-case basis. [Citations omitted].

In this situation the department has not met its burden of showing that there is more than a "mere chance" of litigation. Therefore, the requested information may not be withheld from disclosure under section 552.103(a).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



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RHS/KHG/rho

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Enclosures: Submitted documents

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