



February 23, 1999

Mr. Rusty Renfroe, CLA
City Attorney's Office
City of Longview
P.O. Box 1952
Longview, Texas 75606-1952

OR99-0519

Dear Mr. Renfroe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122229.

The City of Longview received a request for information relating to a claim for damages to property located at 3030 Keystone Street, Longview, Texas. You have supplied the responsive information, asserting that it is excepted from public disclosure by section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

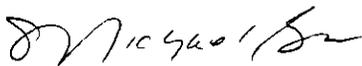
Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The governmental body claiming this exception has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. Open Records Decision No. 551 at 4 (1990). You must meet both prongs of this test for information to be excepted under section 552.103(a).

The mere chance of litigation will not trigger section 552.103(a). Open Records Decision No. 452 at 4 (1986) and authorities cited therein. To demonstrate that litigation is reasonably anticipated, the governmental body must furnish *concrete* evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.* Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open

Records Decision No. 452 at 4 (1986). In the instant case, we note that the claim letter was not the product of an attorney, it does not threaten litigation, and you do not represent that it satisfies prerequisites of litigation.¹ We conclude that you have not demonstrated a reasonable anticipation of litigation in this instance. Therefore, the responsive information must be released.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref:: ID# 122229

Enclosures: Submitted documents

cc: Mr. Scott Mendenhall
State Farm Insurance Companies
P.O. Box 154409
Irving, Texas 75015-4409
(w/o enclosures)

¹A representation from a governmental body that it received a claim letter that complies with the notice requirements of Texas Tort Claims Act, Civ. Prac. & Rem. Code ch. 101, or applicable municipal ordinance, shows that litigation is reasonably anticipated. Open Records Decision No. 638 (1996).