



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 7, 1998

Ms. Tracy Calabrese
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-0051

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111521.

The City of Houston (the "city") received a request for several categories of documents concerning a named individual's grievance hearings. You explain that most of the requested information will be released to the requestor. You claim, however, that several pages, which appear to be notes taken during a Step II meeting, are excepted from required public disclosure by section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

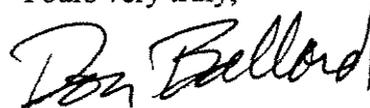
Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state or a political subdivision is or may be a party. The city has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable 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. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The city must meet both prongs of this test for information to be excepted under section 552.103(a).

You inform us that the named city employee who is the subject of this request is involved in a grievance process with the city. You state that the employee had filed a Step III grievance which you characterize as "a quasi-judicial process before a Civil Service Commission hearing examiner." You claim, therefore, that litigation is pending. We have reviewed your arguments and conclude that the internal grievance process you have presented to this office is not pending or reasonably anticipated litigation for the purposes

of section 552.103(a). Therefore, you may not withhold the requested information pursuant to section 552.103 of the Government Code.

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.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 111521

Enclosures: Submitted documents

cc: Ms. Dianne Gutierrez
Staff Representative
American Federation of State, County, and Municipal Employees
P.O. Box 230242
Houston, Texas 77223-0242
(w/o enclosures)