



RQ-814  
CITY OF HOUSTON

Legal Department

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City Attorney

October 24, 1994

Certified Mail RRR #P 918 357 237 **City Council Committee**

*Call*  
*MC-30060-94*  
*30060*

The Honorable Dan Morales  
Attorney General of Texas  
209 W. 14th St., 7th Flr.  
Price Daniel Sr. Bldg.  
Austin, Texas 78701

Re: Open Records request from Craig Goralski dated October 10, 1994,  
for "a copy of HPD's IAD investigation into Dalton Baskin's HPOPS  
activities which led to his dismissal from HPD"

Dear General Morales:

The City received the above-referenced request on October 12, 1994 (Exhibit 1). The City has made those portions of the investigation which were made public thus far during Mr. Baskin's proceedings available to the requestor and has informed the requestor that the City believes the remaining portions to be excepted from public disclosure (Exhibit 2). The City is of the opinion that the requested documents are excepted from public disclosure pursuant to Tex. Gov't Code Ann. § 552.103. Dalton Baskin was indefinitely suspended from employment as a Houston Police Officer as a result of IAD's investigation. The City is currently engaged in arbitration proceedings with Mr. Baskin regarding his indefinite suspension.

Section 552.103 excepts from disclosure information relating to litigation of a civil nature or settlement negotiations to which a political subdivision, or if arising as a consequence of employment, an employee of a political subdivision is or may be a party. To be excepted from disclosure, the attorney representing the interests of the political subdivision must determine that the information should be withheld from public inspection. The City asserts that a hearing before the Civil Service Commission should be regarded as "litigation of a civil nature" since it is quasi-judicial in nature and entails a discovery process with fact finding proceedings. As such, the City is of the opinion that this type of hearing falls within the purview of the exception of § 552.103. Senior Assistant City Attorney

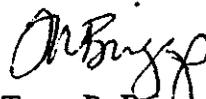


The Honorable Dan Morales  
Attorney General of Texas  
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Olophius Perry represents the City of Houston in the arbitration proceedings involving Dalton Baskin. He has reviewed the portions of the IAD investigation the City is seeking to withhold, and has determined that the documents are directly related to matters in issue at the arbitration proceedings and should be withheld from public disclosure. See Exhibit 3, Olophius Perry's affidavit.

The documents the City seeks to withhold will be forwarded under separate cover. The City respectfully requests an opinion. Please contact me at (713) 247-2442 if additional information is needed.

Sincerely,



Tracy R. Briggs  
Assistant City Attorney

TRB:ej

Enclosures

cc: O. Perry, Labor Div., Legal Department  
Craig Goralski (w/o encls)  
M. Harkins, Legal Services, HPD