

MEMORANDUM OF LAW

DATE: December 29, 1994

TO: Robert Osby, Fire Chief

FROM: City Attorney

SUBJECT: Fire Recruit Selectees; Revocation of Selection to 51st Academy

In a memorandum dated October 26, 1994 you asked whether the Fire Department had any legal obligation regarding the selection of ten individuals as Fire Recruit Candidates for the 51st Basic Fire Academy. Correspondence had been sent by the Fire Department on December 5, 1991 to ten people indicating that they had been selected as Fire Recruits for the 51st Basic Fire Academy. Subsequently, on March 10, 1992, a letter was sent to the ten Recruits stating that the 51st Basic Fire Academy had been "indefinitely postponed."

It appears the Fire Department has no legal obligation to the ten Fire Recruits. A contract did not exist between the Fire Department or the Fire Recruits because of a lack of mutual assent and consideration. The alternative theory of promissory estoppel requires reasonable and justifiable reliance on a clear and unambiguous promise. Based upon the information provided, the elements of promissory estoppel would not be met because of the tenuous nature of the Fire Department's representations.

Attached is a memorandum of law from Senior Legal Paul Mussenden which our office adopts as its response.

JOHN W. WITT, City Attorney

By

Elmer L. Heap, Jr.

Deputy City Attorney

ELH:mm:518:(x043.2)

Attachment

cc Maureen Stapleton, Assistant City Manager

Cheryl Fisher, Director of Human Resources

ML-94-100