



Angela Flood <angela.flood@gmail.com>

Public Records Request

4 messages

Brad Berry <berryb@co.yamhill.or.us>

Wed, Jul 8, 2015 at 1:50 PM

To: "Angela Flood (angela.flood@gmail.com)" <angela.flood@gmail.com>, Preston Polasek <prestonp@ci.lafayette.or.us>

Good afternoon:

I had intended to complete this review last week, but between issues taking me away from my desk and the holiday, I have been delayed. As such, rather than wait for the mail, I decided to write to you both by email. Please forgive the seeming informality of an email written decision rather than a more formal letter.

Ms. Flood petitioned for review of the City's denial of her request to waive fees for records requested some two years ago. As I said before, I concur with her position that the City's failure to respond to her request for a fee waiver was tantamount to a denial. She has not explained why she waited this long to appeal the denial, but that is not relevant to the ultimate denial, especially in light of the continued, now express, denial by the City to waive fees.

Mr. Polasek argues that the requested documents are, in essence, copies of documents related to a private citizen's donation to the City. He argues that as such, it does not affect the community as a whole and that Ms. Flood's position that getting copies are in the public interest is not supported. Ms. Flood disputes that characterization. Neither position, as you will see, affects my decision as the statute is controlling.

ORS 192.440 has several provisions related to fees. It further provides for a process where a public body may waive or reduce fees. The Attorney General's Public Records and Meetings Manual (January, 2011), addresses the issue of a waiver and provides for considerations appropriate for the public body when considering such a waiver. Id, pps. 17-20. However, even in light of the considerations set forth therein, the decision to waive fees or reduce fees is discretionary with the public body. ORS 192.440 (5), clearly states that the public body "may" provide the records without charge or at a reduced fee. Nothing about the fee waiver provision is mandatory.

As such, and as this appeal deals with the denial of a waiver, I have no authority to overrule the City's decision to deny the assessment of a reasonable fee for the production of the documents.

Respectfully,

Bradley Berry

Yamhill County District Attorney

Angela Flood <angela.flood@gmail.com>
To: Brad Berry <berryb@co.yamhill.or.us>
Cc: Preston Polasek <prestonp@ci.lafayette.or.us>

Wed, Jul 8, 2015 at 2:59 PM

As the fee is in violation of the verbiage of the resolution, I am confused by your decision.

As I only requested a dollar amount, and was charged for documents, it confused the matter further.

The city made this matter far more than the request. Then penalized me for information not even requested. It seems a better way to go would have simply directed them to provide the information requested, sans documents.

So, essentially, I am now being charged \$25.00 to find out how much a public improvement project cost.

It's amazing, in this age of technology, document charges are even still a point of contention. The city has all records digitized, by their own statements. Yet they are encouraged, by actions such as this, to remain cloaked in secrecy.

It appears legislation is a citizen's only form of redress, as access to information is clearly not.

My delay was due to my work at the state level, hoping that a mere citizen could change the established system designed by lobbyists to block access to information. Due to logic flowing in this county, that seems to be the relevant direction to go, using this particular incident as anecdotal evidence of the need for change. Thank you, at least, for that.

Angela Flood

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Angela Flood <angela.flood@gmail.com>
To: Brad Berry <berryb@co.yamhill.or.us>

Wed, Jul 8, 2015 at 5:56 PM

Questions for the story...have you ever waived a public document fee? If so, was it ever for a citizen?

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Brad Berry <berryb@co.yamhill.or.us>
To: Angela Flood <angela.flood@gmail.com>

Thu, Jul 9, 2015 at 7:43 AM

I've had no other requests related to fees with the exception of your prior request.

From: Angela Flood [mailto:angela.flood@gmail.com]
Sent: Wednesday, July 08, 2015 5:57 PM
To: Brad Berry
Subject: Re: Public Records Request

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