



For a thriving New England

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June 2, 2014

Kenny Alston, Chief of Staff
State House, Room 224
Providence, RI 02903

Dear Kenny Alston:

This letter constitutes an administrative appeal of a denial of a request for documents, which request was made pursuant to the state's Access to Public Records Act (APRA).

This appeal concerns two specific matters: (1) the redactions made in certain documents that were provided in response to CLF's request for materials; and (2) the denial of CLF's fee-waiver request.

This appeal does not cover documents that were withheld in their entirety. CLF is still negotiating with Ms. Faye Zuckerman and Ms. Anita Flax concerning this separate category of documents. CLF expressly does not waive its right to appeal the withholding of these documents; indeed if this matter is not quickly resolved, CLF will view the failure to resolve the matter as a refusal to release the requested documents; and CLF intends to file a separate administrative appeal regarding this separate category of completely withheld documents.

In order to clarify the substance of this appeal, I provide for you the following materials:

Tab A – CLF's original APRA request, dated March 19, 2014.

Tab B – Response of Faye Zuckerman, dated April 30, 2014.

Tab C – CLF's reply to Faye Zuckerman, dated May 1, 2014

Tab D – Anita Flax's letter to me dated May 9, 2014, specifically regarding CLF's fee-waiver request.

Tab E – CLF's first letter to Anita Flax dated May 21, 2014. N.B.: At the same Tab E, behind the letter to Ms. Flax, is an e-mail exchange that Ms. Flax and I had concerning the matter. The e-mail exchange clarifies the nature of a typographical error in the main letter, which typographical error is of no legal significance. Specifically, the typographical error occurs on page 1, in the last full line of paragraph 2; that second reference to R. I. Gen. Laws § 38-2-2(4)(E), should have been R. I. Gen. Laws § 38-2-2(4)(K) (see e-mail provided).

Tab F – CLF's second letter to Anita Flax, dated May 21.

With regard to the letter that appears at Tab E, you will note that I have provided, behind the cover letter, copies of all of the documents in contention. The statutory exemptions that have been cited by



Ms. Zuckerman and Ms. Flax are clearly not applicable. CLF is confident that, if we are forced to pursue this matter in Superior Court, we will prevail on the merits, and be awarded attorney's fees. I hope that you will make that route unnecessary by providing the unredacted documents at issue here.

With regard to the missing attachment referenced in the letter that appears at Tab F, no claim of statutory exemption has been made – either by Ms. Zuckerman in her letter of April 30, nor by Ms. Flax in response to my letter of May 21. It simply appears to be an oversight that the attached document was not provided. Because no statutory exemption has been claimed, this document must be turned over at once.

With regard to Ms. Flax's May 9 letter (at Tab D) regarding CLF's requested fee waiver, you will note that no reason was given for the denial. Ms. Flax simply stated that "we do not waive fees absent a court order." This is not a reasoned decision, as required by the statute. Once again, we would rather not be forced to take this matter to the Superior Court; at the same time, we are confident what a court would say about Ms. Flax's failure to provide a reasoned basis for the decision denying a fee waiver.

Just to be clear: this letter constitutes an administrative appeal of the following matters:

- The redactions made in the Bates-stamped documents numbered 275, 279, 283, 288, 292, 297 to 300, 301, 349, and 355-357, all of which are reflected in my letter that appears at Tab E.
- The omitted attachment reflected in my letter that appears at Tab F.
- The denial, without reason supported by APRA, of CLF's fee-waiver request, as reflected in Ms. Flax's letter that appears at Tab D.

This letter does not constitute an administrative appeal of what Ms. Zuckerman refers to in her letter dated April 30, 2014 (Tab B), on page 2, lines 2 through 6, as a "third set of documents" in which "no portions of these documents contain reasonably segregable information that is releasable" and therefore "these documents will not be made available for inspection . . ." However, if my current discussions with Ms. Flax do not resolve this issue, this denial will be appealed separately.

It is CLF's intention to hold off filing suit in Superior Court until all of the administrative appeals have been addressed, in order that we may be able to file one suit rather than multiple suits.

Very truly yours,

A handwritten signature in cursive script that reads "Jerry Elmer". The signature is written in dark ink and is positioned above the printed name "Jerry Elmer".

Jerry Elmer