

#2016-45

J. Michael Clára

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MAY 16 2016
Per. *[Signature]*

13 May 2016

DELIVERED PRIORITY MAIL

Ms. Nova Dubovik, Executive Secretary
Utah State Records Committee
346 South Rio Grande
Salt Lake City, Utah 84101-1106

Re: Michael Clára vs. UTAH TRANSIT AUTHORITY

Dear Ms. Dubovik,

Please accept this letter as a:

**GRAMA NOTICE OF APPEAL
TO THE STATE RECORDS COMMITTEE**

INITIAL REQUEST

On December 21, 2015, I submitted a GRAMA request to the Utah Transit Authority (UTA) seeking copies of my evaluations for the last two years, my electronic timecards, my payroll direct deposit receipts, UTA corporate policies on employee discipline and emails. ¹

On January 7, 2016, I submitted a GRAMA Notice of Appeal to the Chief Administrative Officer, due to the fact that UTA ignored my initial request.² In response to my appeal, I received a reply from UTA stating that my request will be fulfilled in five business days.

On January 15, 2016, UTA had did provide me the requested information. Pursuant to §63G-2-401, Utah Code,³ my request to the Chief Administrative Officer had been denied, therefore I filed a GRAMA Appeal Notice of Denial to UTA Board Chairman, Mr. H. David Burton.

¹ Michael Clára GRAMA Request to Ms. Michelle Larson % Utah Transit Authority 12/21/15: *This Request was made as a result of my unjustified termination from UTA on 11 20 15*

² Michael Clára GRAMA Notice of Appeal to the Chief Administrative Officer, Mr. Jerry Benson, CEO 01/07/16

³ If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial. §63G-2-401, Utah Code

On January 28, 2016, in reply to the GRAMA Appeal that I submitted to Chairman Burton, I received a “cease and desist” letter from Mr. Jayme Blakesley, UTA General Counsel. ⁴ Mr. Blakesley states that my GRAMA APPEAL constitutes “improper communication” because I filed a Whistle Blower complaint against UTA.⁵ Clearly, Mr. Blakesley is not familiar with the National Transit Systems Security Act,⁶ under which I filed my Whistle Blower complaint against UTA:

NO PREEMPTION. - *Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.*

RIGHTS RETAINED BY EMPLOYEE. - *Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.⁷*

Contrary to Mr. Blakeley’s threat, the fact that I filed a complaint with the U.S. Department of Labor, has no bearing on my request for information under the state of Utah’s GRAMA statute.

On February 5, 2016, I met with the UTA GRAMA Officer and a UTA attorney at a mediation session convened by Government Records Ombudsman, Ms. Rosemary Cundliff. At that time, UTA fulfilled part of my GRAMA request with the understanding that I would submit a new request narrowing the parameters for the emails that I was seeking.

CURRENT REQUEST

On February 9, 2016, I submitted a revised ⁸ GRAMA request to UTA. I was seeking emails that detailed the circumstances leading up to my wrongful termination by UTA’s Chairman and management *i.e.* proposition bond election, installation of bus stops along the 200 S. corridor in SLC that did not meet ADA, overriding my authority to approve the installation and relocation of bus stops etc..⁹

On February 19, 2016, I submitted a GRAMA notice of appeal to UTA CEO, Mr. Jerry Benson after not receiving a response to my 02/09/16 GRAMA submittal. ¹⁰

On March 30, 2016, I received a letter from UTA Record’s Officer advising me that certain records will be made available for a fee of \$347.00 and other records are classified as protected under GRAMA. The UTA letter stated that I may file an appeal with UTA CEO Benson within 30 days of receiving the letter. As already indicated, I filed an appeal with Mr. Benson on 02/19/16 with no response within the 30 day timeframe as prescribed by UTA Records policy. ¹¹ As you are aware, no response is equivalent to a denial under current GRAMA statute. ¹²

⁴ Mr. Jayme Blakesley – UTA General Counsel, Cease and Desist Letter 01/28/16

⁵ See Michael Clára Whistle Blower Complaint filed with the U.S. Department of Labor 12/10/2015

⁶ National Transit Systems Security Act 6 U.S.C. §1142 - Public Transportation Employee Protections

⁷ *Ibid*

⁸ See Michael Clára GRAMA Request #3 to Michelle Larsen 02/09/16. Original GRAMA request sent on November 28, 2015

⁹ See UTA Service Plan Deployment Specialist Job Description 2010

¹⁰ See Michael Clára GRAMA Notice of Appeal to the Chief Administrative Officer

¹¹ Utah Transit Authority Amended Corporate Policy I.1.10 Records Access and Management Policy -Appeal Process XI C

¹² See Utah Code § 63G-2-401

On April 13, 2016, I filed a GRAMA Appeal Notice of Denial to UTA Board Chairman Mr. H. David Burton¹³

On April 22, 2016, I received a letter from Chairman Burton, denying my GRAMA appeal, perpetuating the cover story for my unjustified termination, mocking me for filing a complaint with the U.S. Department of Labor etc...¹⁴

Page | 3 of 4

On May 13, 2016, I submitted this notice of appeal to the Utah State Records Committee.¹⁵

REMEDY

I am requesting that the State Records Committee to reverse Chairman Burton's denial of my GRAMA Appeal. Chairman Burton does not specify which records are classified as protected, therefore I am unable to submit that portion of the appeal with any specificity. Furthermore, I am appealing the denial of the fee waiver based on the following on the fact that the circumstances surrounding my unwarranted termination from UTA fit into all three categories that justify a fee waiver under GRAMA as the law invites governmental entities to waive fees in certain circumstances:

- a. *A governmental entity may fulfill a record request without charge and is encouraged to do so when it determines that:*
 - i. *(a) releasing the record primarily benefits the public rather than a person;*
 - ii. *(b) the individual requesting the record is the subject of the record,*
 - iii. *(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.¹⁶*

Please consider the following:

During the month of October 2015, UTA management was desperate to get improved bus stops installed in advance of the November 2015, Proposition 1- bond election.¹⁷

On November 20, 2015, UTA's Chief Planning Officer Matt Sibul and Chairman Burton, orchestrated my termination from UTA, because I would not participate in activity that was discriminatory towards passengers with disabilities.¹⁸ They ended my 20 year career with UTA by converting my two week vacation into "job abandonment" (I had earned 40 days of vacation up until that time).¹⁹ The emails I am seeking will benefit the public because it will illustrate how UTA's Board Chairman and management are not trustworthy. The emails will show that they are willing to trade their personal and well as that of the organizations, in order to beguile the public into accepting their deceptive words and illusive actions.

¹³ §63G-2-401, Utah Code

¹⁴ See Appeal Denial Letter from Chairman Burton 04/22/16

¹⁵ §63G-2-402 & 403, Utah Code

¹⁶ §63G-2-203, Utah Code

¹⁷ See Prop 1: A needed Fix or Subsidy for UTA, Salt Lake Tribune 10/19/15

¹⁸ See Official Claims UTA Fired Him For Warning It Violated Safety Rules, Salt Lake Tribune 01/08/16

¹⁹ See Letter Termination Letter from Matt Sibul 12/17/15

I am indeed the subject of the requested emails in that my authority to authorize the placement of bus stops was questioned, overridden and discarded. The requested emails will establish that in the midst of UTA launching a public relations campaign to garner the public's confidence to increase revenue,²⁰ they were doing so at the expense of passengers with disabilities and sacrifice my 20 year career.

Last of all, GRAMA's third reason to grant a fee waiver is based on a two prong criteria. The first being the "subject of the record" and the second, "impecunious". Due to the perverse actions of UTA's Chairman and management, I am currently jobless and penniless, therefore cannot afford the imposed fee. I therefore ask that the Records Committee reverse Chairman Burton's denial so that I can prove my innocence in this matter.

CONCLUSION

Moreover, it is imperative for my personal good and that of the public, that I be afforded the opportunity to exercise my due process rights and obtain justice for the manner in which UTA's Chairman and management maltreated me. They should not be allowed to make me continue to pay for the fact that I was not complicit in their efforts to swindle the public.

In closing, I must make the point that in addition to denying my appeal, Chairman Burton chides me for filing a Whistle Blower complaint with the U.S. Department of Labor. His scolding tone calls to mind the man sentenced to death for killing his parents, who then pleads the courts mercy on the grounds that he is an orphan. Such is the "UTA Way", under its current Board Chairman and management.

Shalom,



J. Michael Clára

cc: Mr. David Burton -Chairman- Board of Trustees, Utah Transit Authority
Mr. Lee Davidson, Salt Lake Tribune
Ms. Christina Flores, KUTV News

Enclosures



²⁰ New Official UTA Goal: Improve Public Trust, Salt Lake Tribune 10/29/15