

OFFICIAL APPEAL TO THE UTAH STATE RECORDS COMMITTEE

February 28, 2018

Utah State Records Committee
c/o Dylan Mace
346 South Rio Grande Street
Sale Lake City, Utah 84101
dylanmace@utah.gov

RE: Request by Cedar Hills Citizens for Responsible Government for a Hearing before the Utah State Records Committee, due to non-compliance by the City of Cedar Hills officials with State Code to provide written definitive final confirmation that ALL responsive records have been provided to our October 9, 2017 GRAMA Request, after new responsive records were “discovered”, and other “irretrievable” records have “not been destroyed” and hence reportedly exist, but have NOT been provided.

Dear Records Committee Members,

As per **Utah Code 63G-2-403**, we members of Cedar Hills Citizens for Responsible Government (hereafter “CHCRG”) **Appeals to the Utah State Records Committee** (hereafter “Committee”) to express grievance and seek relief in our GRAMA request for public records requested to ORDER the City of Cedar Hills (hereafter “City”) to openly and honestly provide definitive statements that ALL responsive public records have been provided, as required by law.

The City claims the records are “irretrievable” while simultaneously declaring they are NOT destroyed, but refuse to provide access to them even though trained and capable professionals can with relative ease access the existing golf course related data (regardless of golf software) the City says is inaccessible, they claim because the original company software provider is no longer in business.

Our Official APPEAL has standing before the Committee for at least the following reasons:

1. The City claims that it does not maintain the requested records, while acknowledging that the records have not been destroyed but “irretrievable” as per,

Administrative Rule 35-2-2(2).

2. And/or the City's failure to definitively respond, which we must consider a denial under the law **UC 63G-2-204(8)**.

Ours was a simple GRAMA request for City controlled public records surrounding golf and specifically free rounds of golf taken by current and former city officials. (see screenshot below...)



CITY OF CEDAR HILLS
GRAMA REQUEST FOR RECORDS

NAME: Ken Cromar - Researcher for Cedar Hills Citizens for Responsible Government

ADDRESS: [REDACTED] CITY, STATE, ZIP: [REDACTED]

DAYTIME PHONE: [REDACTED] E-MAIL: [REDACTED]

DESCRIPTION OF RECORD SOUGHT:

Please provide all public records regarding all individuals or groups who have golfed

for FREE at the Cedar Hills owned golf course over the past three years

from today Oct 9, 2017.

I would like to inspect the records.

Instead, our October 9th GRAMA request has languished way beyond the Nov 8, 2017 election, for which the information was requested, that to this day February 28, 2018, has only provided an unclear and unsatisfactory resolution. We do not understand why the City has been so ineffective. We speculate it is possibly because previous GRAMA Requests in recent years similarly asking for public records about "round of golf" and "played by whom" – and the City's claim previous that the records did NOT exist has been admitted now to have NOT been true – thus putting themselves in the position to have indirectly acknowledging some sort of collusion and/or ineptitude in 100% compliance with Open Records law and our GRAMA requests.

We respectfully request REMEDY: We pray the Committee ORDER the City to provide ALL our GRAMA Request's responsive records immediately, and without further arbitrary and capricious cost estimates, delays, unprofessional capability or willingness to intelligently seek, search, investigate and otherwise obtain and provide the Public's record.

In determining the validity of our plea before the Committee, a number of disturbing documented facts are presented herein for the Committee's consideration – all of which

are documented in the attached email chain below starting at page 7. This pattern of Open Records law abuse includes the following:

- The City Recorder Ms. Colleen Mulvey's arbitrary records retrieval cost estimate of \$2,400 (80 hours x \$35 / hour), along with delayed request for payment, and,
- Which seemed to reflect the City's apparent politically motivated delayed and untimely responses to fulfill our GRAMA request until election day Tuesday November 8, 2017 (as evidence below will show), and,
- CHCRG's immediate request for the City's clarification and explanation of cost estimates, and,
- To which, though requested, the City provided no adequate or reasonable explanation as to why it would take so long and cost so much, followed by,
- CHCRG's renewed requests and offers of help and coaching of the City Manager and City Recorder on logical retrieval process and questioning golf software providers, and,
- Which resulted in the City requesting and obtaining simple electronic computing sort of existing record golf data, which was instantaneously retrieved, requiring no cost to CHCRG or the City, just as we had suggested to the City, -- hence going from \$2,400 cost estimate to \$0 cost, leading to,
- CHCRG's request for the City's FINAL declaration in writing of "complete fulfillment", and,
- Which then on Monday evening November 6th, resulted in new set of documents miraculously "discovered" and provided by the City, and,
- Which resulted in the City Attorney calling Ken Cromar (CHCRG's lead researcher) early the next morning, Tuesday morning November 8th (coincidentally election day! Now too late) apologizing in behalf of the City Manager who wanted it communicated that he is trying to work his Staff into full, professional, lawful compliance procedures, and his request for our patience, and,
- Followed by our CHCRG's November 17, 2017 "Official APPEAL" as per **Utah Code 63G-2-401(2) & (3)** to the Cedar Hills City Manager seeking definitive official declaration that our GRAMA was sufficiently addressed, and,
- Which did NOT come from the City Manager Chandler Goodwin, except in the form of the City Recorder Ms. Mulvey again providing the same October 30,

2017 document, which FALSELY stated that our GRAMA request was responsive, apparently hoping we will accept such a response and give them cover for their errors. We reject their attempt to claim compliance with an outdated claim – that was proven by their own admission through providing of newly discovered records – to be inaccurate and false.

- As hen the City was challenged on complete on the completeness of their responses, they publicly excoriate the requestors as currently at City’s website here <http://www.cedarhills.org/node/1717>, but make no apology, correction or retraction of their false statements when they “discover new golf records” responsive to previous, similar GRAMA Requests for golf play records were not provided because they “did not exist”. See image of City’s “GRAMA Index” entry for April 13, 2012 when they claimed these records did not exist...

4/13/2012	Ken Cromar	List of free rounds of golf and names of players and policy	4/27/2012	Appeal - Response sent 6/18/12 - no appeal - closed
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Note that we made no Appeal. We trusted that the City was being honest and lawful in their response. Apparently, we’ve been wrong to have trusted the City.

- And now the City admits responsive records “exist” but cannot be accessed, because now the software company has gone out of business making the records “irretrievable”. See image of City Manager Chandler Goodwin’s recent explanation (also provided in email chain below)...

Finally, based on a press release from 2015, the City of Cedar Hills had reached out to PAR 9 to obtain records, only to find that PAR 9 had been sold to another company and all records were irretrievable. The city notified you of this in writing at the time of that request.

- All the above to which we at CHCRG say, “We give up! Despite out patience and cooperative efforts with a more reasonable and professional City Attorney in David Shaw (recently resigned due to health concerns), we no longer maintain hope that the City of Cedar Hills can or will consistently comply with their responsibility to 100% fulfill lawful GRAMA requests of public records, in a timely and professional manner, without political motivation, excuses, obfuscations, or unreasonable delays.” We must therefore officially reject their abuse of the Open Records law and seek the honorable Committee’s ORDER for Remedy by the City.
- THEREFORE, our conclusion makes it necessary for us, members of the ad hoc

group Cedar Hills Citizens for Responsible Government (CHCRG) to humbly petition the Utah State Record Committee's thoughtful investigation of the facts provided below in the email chain of events, which we pray will result in the Committee's ORDER that the City of Cedar Hills to PROVIDE ALL PUBLIC RECORDS RESPONSIVE to our CHCRG's legal and lawful October 9, 2017 GRAMA Request.

Therefore, we respectfully submit this APPEAL to the State Records Committee to carefully consider the pattern of abuses, not just with this most recent GRAMA request, -- but how this recent unfulfilled request relates to contradictory recent GRAMA responses.

Why is this GRAMA so important?

We as taxpaying residents living in Cedar Hills have been promised much regarding a golf course which was sold to voters as a promised money maker of hundred of thousands annually, which instead has resulted in not \$1 of profit in any year, which now averages over \$580,000 per year in losses (taxpayer subsidies), and the apparent misuse of the expensive "asset" by city officials and former city officials, without full accountability and documentation – or access to documentation that exists or existed – at the time it was GRAMA requested.

For example, through a recent former Cedar Hills Councilman Rob Crawley who is also a financial accounting professional CFO and former CPA, we have discovered that our former Mayor Brad Sears who resigned in 2004 had been golfing for FREE, and bringing friends for FREE, and using golf carts for FREE with allegedly approximately 590 scheduled tee-times, and 120 cancelations, meaning 470 recorded tee-times (there may be a number of unaccounted rounds played) at an estimated value of at least \$25,000. We know this because he saw the records – records which, we had GRAMA requested previously, but were not provided – but which City now acknowledges existed, but today are now "irretrievable".

Your Committee may be interested to know that current and recent City officials including our new Mayor Jenney Rees (then a Councilwoman) have regularly claimed publicly and in writing that we CHCRG have "never won any Appeal" before your Records Committee, and have lost every time. Not so. Our first and most significant Appeal we made before you was June of 2012, wherein retired Judge Daniels excoriated City officials for not maintaining the public email records, allowing the Councilmember emails to be held on private email accounts where months of emails were allowed to be "destroyed by email service providers", and motioned that the City of Cedar Hills immediately provide responsive email records. The Committee voted in FAVOR of – and declared our "Appeal granted".

12-11

Ken Cromar vs.
City of Cedar Hills

E-mails to and/or from certain members of the City of Cedar Hills governing
body

Appeal
granted

see *Committee's website at...* <https://archives.utah.gov/src/srcappeals-2010-2012.html>

This APPEAL before the Committee resulted in over 6000 pages of public record being released, but again, unfortunately almost a year later – and of course well past the election for which they were requested -- again. This has been the clear pattern before and since that June 2012 Appeal before the honorable Committee.

Today's Appeal before you is simply the most recent malfeasance and abuse of power by the City of Cedar Hills regarding public records, that we felt rose to the level of our plea for your assistance in obtaining remedy. (albeit too late for yet another election)

We look forward to coming before the Committee to answer questions and rebut the City's predictable "explanations" and "justifications" at the earliest possible Committee Hearing.

To that end, we respectfully submit our Petition of APPEAL,

Ken Cromar

Ken Cromar - researcher for and behalf of a number of individuals from
Cedar Hills Citizens for Responsible Government
former elected Cedar Hills Councilman - 1994 to 2000

[REDACTED]
[REDACTED]
[REDACTED]