



Gina Proctor <gproctor@utah.gov>

EXPEDITED APPEALS to SRC-I'm denied Tooele public officers' penal bonds & Marilyn Gillette's oaths as Clerk & Records Officer

1 message

Brady Eames [REDACTED]

Sat, Oct 27, 2018 at 6:43 AM

To: Gina Proctor <gproctor@utah.gov>, Craig Buttars <craig.buttars@cachecounty.org>, Brad Powell <bradp@mvdst.com>
 Cc: Wade Bitner <wbitner@tooeleco.org>, Myron Bateman <mbateman@tooeleco.org>, Shawn Milne <smilne.tooelecounty@gmail.com>, Marilyn Gillette <mgillette@tooeleco.org>, "wshubert@tooeleco.org" <wshubert@tooeleco.org>, "sbroadhead@tooeleco.org" <sbroadhead@tooeleco.org>, "jhoughton@tooeleco.org" <jhoughton@tooeleco.org>, "pwimmer@tooeleco.org" <pwimmer@tooeleco.org>, "jdow@tooeleco.org" <jdow@tooeleco.org>, "mjensen@tooeleco.org" <mjensen@tooeleco.org>, Marie Martinez <mmartinez@tooeleco.org>

EXPEDITED APPEALS

To: The Department of Administrative Services-State Records Committee
 Attn: Gina Proctor-Executive Secretary

Appellant:
 Brady Eames
 [REDACTED]

Phone: [REDACTED]

Appellee:
 Tooele County Corporation (TCC)
 47 South Main
 Tooele, UT 84074
 Website: www.tooeleco.org

Dear State Records Committee (SRC),

With respect to UC 76-8-203, it's an abuse of office if persons who are elected or appointed as certain public officers do not, before they act as such officers, perform the duties of executing and filing **required** penal bonds and of taking, subscribing and filing constitutional oaths.

With respect to UC 17-16-10.5 and 77-6-1, it's malfeasance if persons elected as public officers of counties substantially fail to perform the duties of such officers.

AUTHORITIES

UC 63G-2-402- and -403
 UC 17-16-11
 TCC Code
 Constitution of the United States-Article VI
 Constitution of the State of Utah-Article IV-Section 10

HISTORY AND FACTS

The TCC Code 1-11-14 provides for the appointment of a Records Officer but does not specify that the Clerk is the Records Officer.

In the "County Agency Names" at <https://axaemarchives.utah.gov/public/CountyAgencies.pdf>, Marilyn Gillette is recognized as the Clerk and the Records Officer for the TCC (Marilyn).

At <http://www.co.tooele.ut.us/clerk.htm>, Marilyn is recognized as the Clerk and the Records Officer of the TCC.

The TCC Code 1-11-8 and -9 provide for "an agency" to receive, make initial decisions and charge fees with respect to record requests.

The TCC Code-Title 1-Chapter 3 explicitly provides for the execution and filing of penal bonds by persons holding the titles of, Clerk, Auditor, Sheriff, Attorney, Assessor, Recorder, Surveyor, Justice Court Judge, Constable, Treasurer and Commissioners. Since 1992 and 1995, the performance of such duties have been the law.

UC 17-16-11 provides for the execution and filing of penal bonds by persons holding all the titles enumerated in TCC Code-Title 1-Chapter 3. Since 1974, the performance of such duties has been the law.

On September 26, 2018, I furnished Marilyn an expedited request to access and inspect certain penal bonds and constitutional oaths of office executed and filed by those persons elected or appointed as certain public officers of the

TCC. (attached).

No "agency" of the TCC has provided me any of the penal bonds executed by those persons elected or appointed as the public officers enumerated in TCC Code-Title 1-Chapter 3 and in UC 17-16-11(1).

On September 28, 2018, Marilyn made an initial decision and provided me certain constitutional oaths subscribed by those persons holding certain current public offices of the TCC enumerated in TCC Code-Title 1-Chapter 3 and in UC 17-16-11(1). She has demanded \$5.00 for doing so.

On October 1, 2018, Marilyn made another initial decision and provided me the constitutional oath subscribed by Shawn Milne as Commissioner.

Marilyn has neglected to provide me the constitutional oaths which she should have subscribed as the Clerk and as the Records Officer.

The TCC Code 1-11-10 requires that initial appeals be made to the Records Officer. With respect my requests, such actions would obviously create a conflict of interest because Marilyn has made all the initial decisions.

On September 28, 2018 and in accordance with my rights under UC 63G-2-401(1), I appealed to the Chairman as well as to the other two Commissioners that I had been denied the penal bonds of those persons elected or appointed as the public officers enumerated in TCC Code-Title 1-Chapter 3 and in UC 17-16-11(1) and the constitutional oaths which Marilyn should have subscribed as the Clerk and as the Records Officer. I made it clear to such Commissioners that if there are no penal bond and constitutional oaths of Marilyn as the Clerk and as the Records Officer I believed she lacked any authority to perform the duties of making initial decisions with respect to my requests.

APPEALS

The Commissioners have failed to perform their appellate duties under UC 63G-2-401(5)(a) and TCC Code 1-11-10(5) and have thereby constructively denied my access to and inspection of the penal bonds of those persons elected or appointed as the public officers enumerated in TCC Code Title 1-Chapter 3 and in UC 17-16-11(1).

The Commissioners have failed to perform their appellate duties under UC 63G-2-401(5)(a) and TCC Code 1-11-10(5) and have thereby constructively denied my access to and inspection of Marilyn's subscribed constitutional oaths as the Clerk and as the Records Officer.

With respect to the \$5.00 fee Marilyn is charging me, I believe penal bonds and constitutional oaths are the most public of all records and therefore should be free to access and inspect regardless of where and how they are made accessible and inspectable.

Take important note that the TCC Code-Chapter 11 does not provide for appeals of the Commissioners' constructive or actual denials to the SRC.

I hereby exercise my rights under UC 63G-2-402 and-403 by appealing to the SRC to conduct a hearing with respect to the constructive denials of the Commissioners and the \$5.00 fee described above.

RELIEF SOUGHT

I seek immediate and free access to and inspection of the penal bonds and oaths which I've been constructively denied by the Commissioners.

Respectfully appealed,
BRADY EAMES