



Gina Proctor <gproctor@utah.gov>

Notice of appeal of SJC, Utah Administrator denial for Records request under GRAMA

1 message

KIM CURTIS HENDERSON [REDACTED]

Mon, Jun 24, 2019 at 8:40 PM

To: "gproctor@utah.gov" <gproctor@utah.gov>

Cc: John David Nielson <jdnielson@sanjuancounty.org>

Notice of appeal of SJC, Utah Administrator denial for RECORDS REQUEST under GRAMA

June24,2019

Gina Proctor

State Records Committee

346 S Rio Grande Salt Lake City, Utah 84101-1106

Dear Ms. Proctor

During the San Juan County Commission meeting on April 2, 2019, I observed Commissioner Kenneth Maryboy texting on his cell phone. In that same meeting Steven Boos, Commissioner Maryboy's attorney was observed texting. Mr. Boos has admitted to authoring resolutions for Commissioner Maryboy as well as advising both Commissioners Maryboy and Grayeyes county issues.

On April 3, 2019 I filed a records request with the San Juan County Clerk/Auditor for any emails and/or texts that occurred during the April 2, 2019 commission meeting between Commissioner Kenneth Maryboy and Steven Boos and his associate, between the times of 9:00 am and 1:30 pm.

On April 9, 2019 I received the following response from John David Nielson, San Juan County Clerk/Auditor. (see attached)

In his response, Mr. Nielson's responded in part, he wrote:

- "I'm providing you with a letter where the commissioners have asserted attorney-client privilege. Under Utah Code 63G-2-401."
- "If you wish to appeal the findings of this request, you may appeal the county's decision within 30 days of this letter to Kelly Pehrson, San Juan County Chief Administrative Officer."

Mr. Pehrson resigned as the San Juan County Chief Administrator on or around April 22, 2019. On May 8th, 2019 I sent a letter of appeal to the San Juan County Commission (see attached) as per direction of Mr. Neilson, San Juan County Clerk.

On May 28th, 2019 after no response from the commission regarding my appeal, I resubmitted my appeal to David Everitt, interim San Juan County Chief Administrator. On May 29th, 2019, I received a denial of GRAMA request. (see attached).

Mr. Everitt wrote, in part:

- "because the information you requested is subject to client attorney privilege, the denial is upheld".

Please accept this letter as an appeal of a chief administrative officer as outlined in section 63-G -402.

(2) (a) **Requester information:** Kim Henderson, PO box 1347, Monticello, Utah 84535, (435)419-0179

(b) **Relief sought:** All electronic communication, Txt messages, email between Kenneth Maryboy, Steven Boos and his associate Rhonda Tuni on April 2, 2019 from the hours of 9:00 am -1:30pm (San Juan County Commission meeting.)

(3) **Reasons in support of appeal:** Utah code 63G-2-103 defines "Record" as book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data or other documentary material regardless of physical form or characteristics: that is prepared, owned, received, or retained by a governmental entity or political subdivision.

Utah Constitution and the Utah Legislature (Section 63G-2-102, (1) (a) the public's right of access to information concerning the conduct of public business.

Courts have ruled that texts, emails send or received by government officials during public meeting are public record.

The State Records Committee of the State of Utah case no 19-15

Bill Keshlear V San Juan County:

Order: THEREFOR, IT IS ORDERED THAT the appeal of the Petitioner, Bill Keshlear is GRANTED. Respondent, San Juan County is ordered to review their records to determine what records are responsive to Mr. Keshlear's February 6, 2019 records request, and then subject to the provisions of GRAMA. Allow Mr. Keshlear to inspect and take copy of the records.

Because of the similar circumstances between my GRAMA request and subsequence appeals and Mr. Keshlear's, I would appreciate your consideration in this matter.

Thank you,

Kim Henderson

 **GRAMA appeal response - 5-28-2019 Everitt.pdf**
1119K

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1119K