

# REQUEST FOR RECORDS UNDER GRAMA

REC'D MAR 14 2019

Notice of Appeal of Decision of Chief Administrative Officer

March 13, 2019

Gina Proctor  
State Records Committee  
346 S Rio Grande Salt Lake City, UT 84101-1106

Ms. Proctor,

On February 26, 2019, I received a reply from San Juan County Clerk John David Nielson to a records request (see attached). None of the records I sought was included in his reply. The next day I appealed that decision to Kelly Pehrson, San Juan County Chief Administrative Officer. His response of March 11 is attached. None of the records I sought was included in Pehrson's reply.

According to Section 63G-2-204 (8) of the Government Records Access and Management Act, "If the government entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record."

Based on Mr. Nielson's and Mr. Pehrson's reply and the relevant paragraph of Utah Code cited above, I can only conclude officials of San Juan County (County) have in effect denied access to the requested records.

In part, Mr. Nielson wrote:

*"Please note that the county is not denying the requested information based on classification. These are the only documents provided as of the request deadline."*

*"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."*

In part, Mr. Pehrson wrote:

*"I reached out to the departments involved and requested this information on March 27, 2019. I also included your email with your appeal request. As of March 11, 2019, the only information that my office has been given is the approved resolutions that you have requested and that the County Clerk has provided to you."*

(Mr. Pehrson is likely referring to February 27, not March 27.)

**Please accept this letter as appealing a decision of a chief administrative officer as outlined in Section 63G-2-402.**

**(2) (a) Requester information:** Bill Keshlear, 780 E. Kensington, Salt Lake City, UT 84105, (801) 699-7773

**(b) Relief sought:** Release of all emails, phone records, postal letters, rough drafts and any other material relating to authorship and payment for services in connection with the production of resolutions introduced by Kenneth Maryboy at a San Juan County Commission meeting on Feb. 5, 2019: (1) a resolution directing San Juan County Attorney, Kendall Laws, prepare a comprehensive of list civil litigation (2) a resolution rescinding all prior resolutions of the San Juan County Commission opposing Bears Ears National Monument (3) a resolution directing the San Juan County Attorney, Kendall Laws, to intervene in three lawsuits, including Utah Dine Bikeyah, et al. v. Donald Trump, et al., and terminate representation agreements between San Juan County and Mountain States Legal Foundation.

**(3) Reasons in support of the appeal:** The records sought primarily benefit the public because they would offer insight into the policy-making apparatus of the current San Juan County Commission. One of the first actions of the commission has been to write, introduce, and approve these resolutions. Given the pressing needs of San Juan County, this request under GRAMA could partially explain the commissioners' sense of priorities.

In denying the request, the County has ignored legislative objectives and possibly its statutory obligations under Section 63G-2-205 (2) subparagraphs (a) and (b). The County's response gives no justification under statute for ignoring the records request – which flouts the intent of both the Utah Constitution and the Utah Legislature (Section 63G-2-102, (1)(a) the public's right of access to information concerning the conduct of the public's business; (3)(a) promote the public's right of easy and reasonable access; (3)(b) specify conditions in which restrictions outweigh the public's interest in access; and (3)(e) favor public access when competing interests are of equal weight.

Thanks for your timely consideration of this matter,  
Bill Keshlear

Salt Lake City, Utah  


Cc: John David Nielson, Kelly Pehrson, Kenneth Maryboy, Willie Grayeyes, Bruce Adams,  
Rosemary Cundiff