#2017-81

State Records Committee, RECD AUG 25 2017 8-17-17

Re: UDC GRAMA Appeal Request #33738

On 7-24-17 I submitted a GRAMA request to UDC for a statement showing all calls made and the associated cost of such calls. It was denied by Gina Proctor on 7-26-17. I appealed the denial and on 8-11-17 Director Mike Haddon upheld the denial. I now wish to appeal the records denial to the State Records Committee.

First, UDC's argument that this is a duplicate request is moot. UCA § 63G-2-201(8)(a)(iv) only provides that an entity isn't required to "fulfill" a request if it has already provided the records. UDC denied the prior request and never gave me access to the records I'm seeking. So this request does not unreasonably duplicate prior requests.

Second, the State Records Committee did hold in a June 2017 hearing that a denial to process a request due to an outstanding balance was justified. However, UDC counsel Mr. Matt Anderson did not raise this argument until his closing arguments, at a time when I wasn't provided an opportunity to rebut this argument. Also conveniently, Mr. Anderson did not provide the Committee with the whole truth. He didn't tell them that an agreement had been made with Mr. [illegible]

be made until the amount owed was paid in full. We had also agreed that UDC would continue to process requests during this time. Mr. Anderson's selective portions of the truth regarding the outstanding balance owed was extremely prejudicial to myself. Had the Committee been aware of the whole truth it is possible they would've ruled differently. See the enclosed copy of a letter dated 5-18-17 from Director Haddon where he acknowledged this agreement. Clearly this letter was sent before our June 2017 hearing.

Part of the issue surrounding the outstanding balance currently owed is due to UDC agreeing that my mother, could send a check to the Records Bureau to cover these monthly payments. In fact she sent a check to Ms. Proctor mid-May for the first installment. Ms. Proctor sent the check back stating the money must come from my inmate account. But my mother did not agree to pay the payments in such a manner. And why does it matter how the payments are made as long as they're made? It seems that petty bureaucracy is making things more difficult than necessary. Surely UDC has the capability to process as payment a personal check for a GRAMA request. What if my mom had made the request in her name. How would they have her pay it? They should tell her to send the

Records Bureau a check. So why is this any different? The request was in my name, but the Records Bureau knows she (my mother) is paying for it. And moreover this was my understanding of the agreement with UDC. And it was my mother's understanding as well. Had we known that UDC wouldn't accept a personal check from her we would've chosen to not withdraw the appeal hearing for that request.

The fact is that UDC changed its position regarding how much the disputed request (for which I owe the outstanding balance), would cost. Ms. Proctor sent me a letter dated 4-12-16 where she gave me the option of having all responsive records placed on one CD "so that the total fee for the one cd is $10.00 for providing all 44 request's responsive emails." I notified her that is what I wanted done. Then, after UDC had finished the request, she sent me a letter saying I owed $370 for the request. To me the word "total" was pretty clear and left no room for inferences. Clearly, UDC has a problem when it comes to making an agreement, written or verbal, and then sticking to it.

Finally, I am the subject of the requested records. UCA § 63G-2-203 provides that an entity is "encouraged" to provide a fee waiver. Obviously this is discretionary so

the question then becomes are they abusing that discretion. UDC never waives a fee based on an individual being the subject of a record. If a fee is waived it is due to their impecuniousness. Were UDC to audit its fee waivers this would be clear and convincing. As such, UDC is abusin its discretion and legislative encouragement to waive fees solely based on an individual being the subject of a record request.

Due to the inability of myself and UDC to resolve these issues I would like to request a hearing before the State Record Committee to address the denial of this request.

Respectfully,

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