
BEFORE THE STATE RECORDS COMMITTEE OF THE

STATE OF UTAH

KEN CROMAR,

Petitioner,

v.

CEDAR HILLS,

Respondent.

DECISION AND ORDER

Case No. 18-19

By this appeal, Petitioner, Ken Cromar seeks access to records allegedly held by Respondent, Cedar Hills.

FACTS

On October 9, 2017, Mr. Cromar, a researcher for Cedar Hills Citizens for Responsible Government, made a request for records pursuant to the Government Records Access and Management Act (“GRAMA”). Mr. Cromer requested from Respondent “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...” In a letter dated October 20, 2017, the City Recorder for Respondent wrote that the “records you are requesting are not maintained in one simple format so the information requires the time of staff members to gather, sort, and compile.” On November 6, 2017, the City Recorder provided two electronic files via e-mail containing information on free

rounds of golf at the Cedar Hills Golf Club.

Believing that all documents had not been provided to him, Mr. Cromar filed an appeal with Respondent on November 17, 2017. The City Recorder responded on November 20, 2017 stating that the “city does consider your GRAMA requests completed and fulfilled.” Thereafter, Mr. Cromar filed an appeal with the State Records Committee (“Committee”). After hearing oral argument and testimony from all the parties on June 14, 2018, and carefully considering the requested relief of the parties, the Committee issues the following Decision and Order.

STATEMENT OF REASONS FOR DECISION

1. Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Utah Code §§ 63G-2-203 and -204. Utah Code § 63G-2-201(1). However, in response to a records request, a governmental entity is not required to create a record. Utah Code § 63G-2-201(8)(a)(i).
2. During the hearing, the City Recorder for Respondent testified that every document responsive to Mr. Cromar’s records request which was within the custody and control of Respondent, had been provided to Mr. Cromar. The City Recorder also testified that some of the requested records concerning golfers at the golf course could not be provided because the company that kept the records (Par 9) had gone out of business.
3. After having considered the written and oral arguments of the parties, the Committee finds that all records responsive to Mr. Cromar’s records request within the custody and control of Respondent have been provided to Mr. Cromar. The Committee also finds that

Respondent is not required to create any records pursuant to Utah Code § 63G-2-201(8)(a)(i).

ORDER

THEREFORE, IT IS ORDERED THAT the appeal of Petitioner, Ken Cromar, is **DENIED.**

RIGHT TO APPEAL

A party to a proceeding before the Committee may seek judicial review in District Court of a Committee's Order by filing a petition for review of the Committee Order as provided in Utah Code § 63G-2-404. Utah Code § 63G-2-403(14). A petition for judicial review of a Committee Order "shall be filed no later than 30 days" after the date of the Committee Order. Utah Code § 63G-2-404(1)(a). The petition for judicial review must be a complaint which is governed by the Utah Rules of Civil Procedure and include the Committee as a necessary party and contain the required information listed in Subsection -404(2). Utah Code § 63G-2-404(1) & (2). The court shall make its decision *de novo* but shall allow introduction of evidence presented to the Committee, determine all questions of fact and law without a jury, and decide the issue at the earliest practical opportunity. Utah Code § 63G-2-404(6). In order to protect a parties' rights on appeal, a party may wish to seek advice from an attorney.

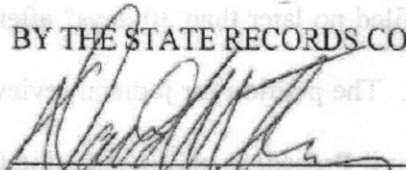
PENALTY NOTICE

Pursuant to Utah Code § 63G-2-403(15)(c), if the Committee orders the governmental entity to produce a record and no appeal is filed, the government entity herein shall comply with

the order of the Committee and shall: (1) Produce the record; and (2) File a notice of compliance with the Committee. If the governmental entity ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the Committee may do either or both of the following: (1) Impose a civil penalty of up to \$500 for each day of continuing noncompliance; or (2) Send written notice of the entity's noncompliance to the Governor. Utah Code § 63G-2-403(15)(d)(i)(B). In imposing a civil penalty, the Committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional. Utah Code § 63G-2-403(15)(d)(ii).

Entered this 25 day of June 2018

BY THE STATE RECORDS COMMITTEE



DAVID FLEMING, Chairperson
State Records Committee

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing Order, U.S. mail postage prepaid, this 25th day of June 2018 to the following:

KEN CROMAR

[REDACTED]
Cedar hills, UT 84062
Petitioner

ADAM D. WAHLQUIST

Kirton | McConkie
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Salt Lake City, UT 84111
*Counsel for Respondent,
Cedar Hills*



Gina Proctor
Executive Secretary