

Freedom of Information Act Request for Specific Correspondence Relating to Recent Municipal Elections Contest

E. Jeremy Hutton <ejerryh@gmail.com>

Sun 18-Aug-19 16:22

To: Kevin Carden <kevin.carden@harpersferrywv.us>

Kevin:

I am hereby submitting a formal request under the West Virginia Freedom of Information Act for documents held by you under your authority as Harpers Ferry Municipal Government's custodian of public records in accordance with the public's rights under the West Virginia Freedom of Information Act and in accordance with procedures prescribed therein. W. Va. Code § 29B-1 et seq. for the following records:

All correspondence, including emails, briefs or memoranda, received by the Town Council for its public meeting on August 12, 2019, from the Town Attorney Effie Kallas, Zak Ritchie, Greg Bailey and the West Virginia Secretary of State's Office, advising them on the required dates for meeting as Municipal Court to decide the validity of contested ballots from the last Municipal Election on June 11, 2019, relating to its deciding questions on the date of such hearing and the question of recusal of Council Members whose election might be invalidated.

Under. § 29B-1-3(4), these documents are clearly "public records" since they are "writing containing ...information relating to the conduct of the public's business...retained by a public body." The West Virginia Supreme Court has ruled:

"A writing in the possession of a public body is a public record required to be disclosed under the Act where the writing relates to the conduct of the public's business and is not specifically exempted from disclosure pursuant to W. Va. Code, 29B-1-4. Conversely, a writing in the possession of a public body is not a public record and need not be disclosed under the Act where the writing does not relate to the conduct of the public's business or where the writing is specifically exempt from disclosure pursuant to W. Va. Code, 29B-1-4." *Shepherdstown Observer, Inc. v. Maghan*, 226 W. Va.353 at 359, 700 S.E.2d 805 at 811(2010).

In accordance with the deadlines provided by § 29B-1-3(4), I request that you provide me with copies of the requested information no later than close of business August 23, 2019.

Thank you for your assistance and cooperation.

E. Jeremy Hutton

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