



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: January 16, 2009
SUBJECT: Frank Lawrence v. City of Troy

At the October 20, 2008 meeting, City Council was provided with a copy of a new lawsuit, which was filed by Frank Lawrence against the City of Troy. Mr. Lawrence is the brother of Thomas Lawrence, who was issued a civil infraction traffic citation on October 4, 2008 for “no proof of insurance” and “failure to change address on driver’s license”. Frank Lawrence filed a Freedom of Information request with the Troy Police Department asking for a number of items, including but not limited to: all video recordings, radio transmissions, records and the officer’s disciplinary file (if any). At the time the lawsuit was filed, Thomas Lawrence had a two count civil infraction case in the 52-4 District Court.

Under Michigan Court Rule 2.302 (A)(3), discovery is not permitted in civil infraction actions. Similarly, discovery in other cases in the 52-4 District Court is also limited. It is for this reason, and also since we believe that a prosecutor is entitled to at least the same information as a defendant, that the Troy Police Department routinely deny FOIA requests seeking to circumvent the Michigan Court Rule limiting discovery. As with all FOIA denial letters, the standard denial/ referral to the prosecutor letter sets forth MCL 15.243(1)(d) as the basis for the claimed FOIA exemption, as well as the right to an appeal of the denial.

Instead of filing an appeal, as allowed under state law and the City’s policy, Mr. Lawrence instead filed a lawsuit against the City. In his complaint, he erroneously juxtaposes the citation, and then claimed that no such citation exists. He also claimed that he was entitled to all of his requested information. Although only MCL 15.243(1)(d) was set forth in the denial letter, there are several other applicable exemptions. For example, there is a specific FOIA exemption applicable to personnel records of police officers.

On December 1, 2008, Oakland County Circuit Court Judge Steven Andrews issued a favorable order for the City, dismissing the case. Mr. Lawrence has now appealed this decision by filing a Claim of Appeal with the Michigan Court of Appeals. We will continue to represent the City in this appeal, absent contrary direction from City Council.

Upon information and belief, Thomas Lawrence has also appealed the December 18, 2008 determination that he is responsible for his civil infraction no proof of insurance ticket. This matter is being handled by an Assistant Oakland County Corporation Counsel.

Please let us know if we can provide additional information.