



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: July 1, 2009
SUBJECT: Frank Lawrence v. City of Troy

In October, 2008, the City was served with a 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 can also be limited. The District Court Judges have the discretion to decide the relevance of requested documentation, as well as decide any issues of privacy or undue prejudice, etc.. The adjudication of discovery requests in the criminal court forum also ensures that all parties (the prosecution and the defense) have equal access to the discovery. Mr. Lawrence’s FOIA request sought documentation that would otherwise have been unavailable under the Michigan Court Rules. He also sought information that was exempt under other provisions of FOIA, including specific exemptions applicable to the personnel records of police officers. Our police department therefore sent him a denial letter, referring him to the prosecutor to seek his requested documentation. This denial letter relied on MCL 15.243(1) (d) as the applicable exemption to FOIA. The letter also informed Mr. Lawrence of the right to appeal 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.

Mr. Lawrence filed an immediate motion, seeking a judgment against the City. The City’s response to this motion asked for a dismissal, based on the applicable FOIA exemptions. After reviewing the motions, Oakland County Circuit Court Judge Steven Andrews issued a favorable order for the City, dismissing the case on October 1, 2008. Mr. Lawrence appealed this decision to the Michigan Court of Appeals.

We appeared for oral arguments on June 2, 2009. On June 23, 2009 the Court of Appeals issued an unpublished opinion, which is not binding. The Court of Appeals reversed Judge Andrews and remanding the case to the Oakland County Circuit Court. The Court also determined that FOIA could be used to circumvent the discovery court rules. Due to the retirement of Judge Andrews, the case will now go to Oakland County Circuit Court Judge Leo Bowman, who will decide whether some of the other FOIA exceptions are applicable, and will also decide whether the City’s denial was “arbitrary and capricious,” entitling Mr. Lawrence to sanctions.