

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

29 SEP - 1 11 01 a.m. FILE NO. 99 CVS 03497

PETER DAWES, JAMES D. YELTON  
And MIKE MORGAN,  
d/b/a/ C&T News Service,

Plaintiffs,

JUDGMENT

JUL 11 2012

vs.

BUNCOMBE COUNTY BOARD OF  
COMMISSIONERS AND WANDA S  
GREEFE, in her capacity as  
Buncombe County Manager,

Defendants.

THIS CAUSE came before the undersigned Judge on August 18, 1999 on the plaintiff's Petition for Declaratory Judgment and Other Relief; and after reviewing the pleadings, hearing the testimony of witnesses appearing this day in open court, and considering the arguments of counsel, the Court hereby makes the following finding of fact:

1. This case involves a dispute over the defendant's implementation of a Multiple Information Requests Policy which as of July 9, 1999 was enforced against the Plaintiffs so as to require them to make written request to the Buncombe County Manager in order to obtain public records of the County.

BASED UPON THE FOREGOING FINDING OF FACT THE COURT CONCLUDES AS MATTER OF LAW AS FOLLOWS:

1. The North Carolina Public Records Law, General Statute 132-1 et seq., provides that "[e]very custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law." General Statute 132-6(a).
2. The law provides that "[t]he public official in charge of an office having public records shall be the custodian thereof." General Statute 132-2.

3. The law by its own express terms does not permit for the interposition of a "gatehouse" or "overseer" between members of the public who desire access to public records and the custodians of public records.
4. Custodians of public records (but not a "gatekeeper") are entitled to develop reasonable rules, applicable to all citizens equally, governing their production of public records; for example, it would be reasonable for a custodian to require citizens having voluminous request for copies (1) to make a written request specifying with particularity the items to be copied, and (2) to make advance payment for such voluminous items to be retrieved.
5. That the term "custodian of public records" as contained in North Carolina General Statute: Section 132-6(a) refers to the individual who in fact has possession of records, and not to the County Manager other than as to those records which she does in fact have personal possession of, and the Defendant Greene cannot therefore legally make herself in effect a "Gatehouse" for access to public records as she has attempted to in the implementation of the County's policy as to these Plaintiffs.
6. That the Defendants are legally entitled to impose reasonable procedures for obtaining copies of public records, including a requirement that such requests be made in writing to the "custodian" of the records, but not to the Defendant Greene other than for records of which she is in fact the "custodian."
7. That custodians of public records in Buncombe County, as elsewhere throughout this State, are entitled to reasonable time in which to assemble records necessary to comply with a request for inspection and/or copying.
8. That the Defendants are entitled to impose reasonable procedures to assure that the actual cost of copying records are paid by those who receive them.
9. That Defendants are entitled within the purview of the statute to impose reasonable measures to protect the County and its employees from disruptive and abusive action.

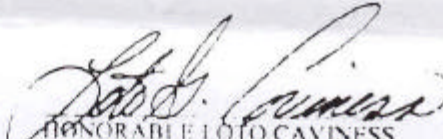
BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED.

1. That Defendants "Multiple Information Request" policy as applied to these Plaintiffs, to the extent that it requires Plaintiffs to submit requests for access to public information through the County Manager, is hereby declared null and void.
2. That other than as heretofore ordered in the foregoing paragraph 1, the policy of the Defendants is affirmed by this Court as valid and reasonable procedures for

affording access to public records while simultaneously protecting other legitimate interests of the County.

3. It is specifically adjudged and decreed that Defendants may require these Plaintiffs to submit requests for voluminous information in writing to the appropriate custodians of public records.
4. It is further adjudged and decreed that as to any requests made by these Plaintiffs for information, the custodians of Defendants public records shall have reasonable time to comply with the request.
5. That each party shall pay their own cost of this action.

This the 1 day of September, 1999.

  
HONORABLE LOTO CAVINESS  
Judge Presiding