

Kathy Spofford

From: Kathy Spofford <kspofford@townsend.ma.us>
Sent: Monday, February 05, 2018 11:37 AM
To: 'Todd Melanson'
Subject: RE: Public Records Request
Attachments: TWD v. Townsend Response.pdf

Mr. Melanson,

Attached is the response to your request which was:

1. Town Council's answer to the water department's suit against the town.

For your second request, there are no records responsive to your request. This request was forwarded to the Town Accountant.

2. All billing statements from the town to the water department for services from October 1 2017 to January 18 2018.

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within 10 business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c.66, §10A(c).

Thank you,

Kathleen M. Spofford
Town Clerk
Town of Townsend
272 Main Street
Townsend, MA 01469
978-597-1704
FAX: 978-597-8135

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics unless it falls under one of the statutory exemptions to the Public Records Law MGL c. 4, s. 7(26). Consequently, email is subject to the disclosure, retention and maintenance provisions as required by law. MGL c. 66.

From: Todd Melanson [mailto:tdzilla66@gmail.com]
Sent: Friday, January 19, 2018 6:34 AM
To: Kathy Spofford
Subject: Public Records Request

Ms. Spofford,

I here by make a public records request of town records for the following:

1. Town Council's answer to the water department's suit against the town
2. All billing statements from the town to the water department for services from October 1 2017 to January 18 2018.

Additionally, I would like to inform your office that I will complete the online ethics test required for my participation in the Master Plan Update Committee. There is to be no further communication between your department's staff and my employment. This is a request to you direct as Town Clerk and since you are the direct supervisor, there is no need to nor do I expect this request to be shared with your staff. My employer and the AG's office is aware to this request.

Sincerely
Todd Melanson



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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DEPARTMENT OF THE TRIAL COURT
MIDDLESEX SUPERIOR COURT

TOWNSEND WATER DEPARTMENT, et al,

Plaintiff,

v.

TOWN OF TOWNSEND,

Defendant.

Civil Action No. 1781CV02286

ANSWER OF THE DEFENDANT TOWN OF TOWNSEND TO AMENDED COMPLAINT

Now comes the defendant, Town of Townsend ("the Town") and hereby responds to the corresponding numbered paragraphs of the Amended Complaint dated October 13, 2017, as follows:

1. The Town admits that the Water Department ("the Department") is a department of the Town. The Town denies that the Department is a separate legal entity and further denies that it can sue in its own name.

2. The Town admits that Nathan Mattila is Chairman of the Water Commission. The Town denies the remaining allegations in paragraph two.

3. The Town admits that Lance Lewand is Vice Chairman of the Water Commission. The Town denies the remaining allegations in paragraph two.

4. The Town admits that Michael MacEachern is Clerk of the Water Commission. The Town denies the remaining allegations in paragraph two.

5. The Town admits the allegations in paragraph five.

6. The Town states that the allegations contained in paragraph six are conclusions of law to which no response is required. The Town states that the Acts of 1920, Chapter 391 is a special act applicable to the Town.

7. The Town admits the allegations in paragraph seven.

8. The Town admits the allegations in paragraph eight.

9. In response to the allegations in paragraph nine, the Town admits that it received two letters dated March 7, 2016 and March 16, 2017, and that the letters speak for themselves.

10. The Town admits that it responded to the letters referred to above and that the letter speaks for itself.

11. The Town admits the allegations in paragraph eleven. In further response, the Town states that the position of Water Superintendent is included within a collective bargaining unit pursuant to the provisions of G.L. c.150E and that pursuant to that statute, the Town's Board of Selectmen serve as the employer.

12. The Town admits that on May 9, 2017, the Town Meeting voted to accept the provisions of G.L. c. 41 § 69B. The Town states that the remaining allegations in paragraph twelve contain only conclusions of law to which no response is required.

13. The Town admits that on July 26, 2017, the Town Administrator sent an email to the Water Superintendent. In further response, the Town states that the email speaks for itself.

14. The Town admits the allegations in paragraph fourteen. In further response, the Town states that the Town Charter Section 3-2(b) reserves exclusive authority to retain counsel with the Board of Selectmen.

15. The Town asserts that the allegations in paragraph fifteen contain only conclusions of law to which no response is required. In further response to the allegations, the

Town asserts that G.L. c. 150E and the Charter make the Board the employer of the Water Superintendent. In further response, the Town asserts that the Water Commissioners do not have the authority to hire counsel or to prosecute actions in their own name.

16. The Town states that the allegations in paragraph sixteen contain only conclusions of law to which no response is required. To the extent that any factual allegations are made they are denied.

The Town denies that the Plaintiffs are entitled to relief as demanded.

FIRST AFFIRMATIVE DEFENSE

The Town states that the Complaint fails to state a claim for which relief may be granted

SECOND AFFIRMATIVE DEFENSE

The Town states that the Department is not a legal entity and may not maintain an action in its own name.

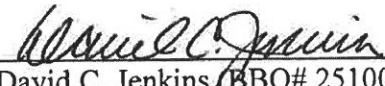
THIRD AFFIRMATIVE DEFENSE

The Town states that the plaintiffs have failed to name a indispensable party with an interest in the litigation

Respectfully submitted,

TOWN OF TOWNSEND

By its attorney,


David C. Jenkins (BBO# 251000)
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110-1109
djenkins@k-plaw.com

Dated:

November 19, 2017

CERTIFICATE OF SERVICE

I, , hereby certify that on the below date, I served a copy of the foregoing Answer of the Defendant Town of Townsend to Amended Complaint, by first class mail, postage prepaid, to the following counsel of record:

Stephen G. Doucette, Esq.
Doucette & LaRose, LLC
251 Main Street
Oxford, MA 01540

Dated: November 19, 2017

David C. Jenkins

David C. Jenkins

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