

Bond Case Briefs

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PUBLIC RECORDS ACT - ALASKA

Griswold v. Homer City Council

Supreme Court of Alaska - September 13, 2013 - P.3d - 2013 WL 5020659

In February 2008, the Homer City Council approved a bond proposition and issued an election brochure entitled "Questions & Answers about Homer Town Square and the New City Hall." Homer resident Frank Griswold filed a complaint with the Alaska Public Offices Commission, alleging that the brochure constituted the use of municipal funds to influence the outcome of a ballot measure without an appropriation ordinance in violation of AS 15.13.145.1 The commission agreed with Griswold and fined the City \$400.

Griswold filed a public records request with City Manager requesting any documents relating to the brochure. The City of Homer eventually produced all of the emails requested, except for privileged emails and deleted emails that could not be recovered without expensive software. Griswold sought review of city manager's response to his public records request. The Superior Court affirmed city council's determination that manager had made good faith effort to comply with request. Griswold appealed.

The Supreme Court of Alaska held that:

- City manager made good faith effort to locate requested records;
- City did not destroy records in violation of Public Records Act;
- Trial court did not violate requestor's right to a hearing;
- Trial judge did not indicate an appearance of partiality; and
- Award of attorney's fees to city was reasonable.

City manager made a good faith and reasonable effort to locate records identified in requestor's public records request for emails related to public bond proposition so as to comply with city code provision related to records requests. City's computer system manager explained that he spent 40-50 hours searching for the email records that were requested by requestor, he stated that he searched the backup system and computer hard drives, and he explained that he used state-of-the-art retrieval software. The search did not obtain all responsive records, but the procedures necessary to obtain the remaining records would have required five to ten thousand dollars of additional forensic software and several additional weeks of work.