

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF ADMINISTRATION

In the Matter of the Appeal of the  
Determination of the Responsible  
Authority for LeSueur County that  
Certain Data Concerning Wayne A.  
Quiram are Accurate and/or Complete

**ORDER GRANTING MOTION TO  
DISMISS IN PART  
AND  
SCHEDULING REMAINING ISSUE  
FOR HEARING**

The Notice Of and Order for Hearing was issued by the Department of Administration on November 1, 2005, scheduling a hearing for January 11, 2006.

Appearances: Brent Christian, Le Sueur County Attorney, 65 South Park Avenue, P.O. Box 156, Le Center, Minnesota 56057-0156, on behalf of Le Sueur County. Wayne A. Quiram, 23342 German Lake Road, Cleveland, MN 56017, on his own behalf.<sup>1</sup>

On January 4, 2006, Brent Christian, Le Sueur County Attorney objected to the subpoenas requested by Mr. Quiram and requested clarification of the issues for hearing. On January 5, 2006, the Administrative Law Judge sent a letter to Mr. Quiram setting forth the two issues included in the Notice of and Order for Hearing, and requesting that Mr. Quiram specify the information that he alleged was inaccurate or incomplete. The hearing was continued. Mr. Quiram responded by letter dated January 13, 2006.<sup>2</sup>

On January 26, 2006, the County filed a Motion to Dismiss on the basis that Mr. Quiram failed to specify the precise documents that are inaccurate or incomplete and the inaccuracies or incomplete statements contained within them. Pursuant to Minn. R. 1400.6600, the opposing party had ten business days to respond.<sup>3</sup> Mr. Quiram did not respond to the Motion to Dismiss.<sup>4</sup>

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<sup>1</sup> Mr. Quiram filed a Notice of Appearance indicating that he would be represented by Jerry Strauss, 250 2<sup>nd</sup> Avenue South, Suite 110, Minneapolis, MN 55401. However, Mr. Strauss has not responded to correspondence from the Administrative Law Judge asking that he clarify his status, nor did he respond on behalf of Mr. Quiram to the County's Motion to Dismiss.

<sup>2</sup> The Administrative Law Judge sent a copy of Mr. Quiram's response to Mr. Christian and to Mr. Strauss.

<sup>3</sup> This requirement was reiterated in a letter dated January 18, 2006, from the Administrative Law Judge to Mr. Strauss and copied to Mr. Quiram.

## RECOMMENDATION

IT IS HEREBY ORDERED:

1. That the County's Motion to Dismiss is GRANTED in part and DENIED in part.

2. That the remaining issue for hearing is whether the statement in the e-mail to "Leo" dated May 28, 2002, that "we have had complaints regarding a large pile of sticks and brush that Mr. Quiram is piling up" is an accurate statement.

3. That by **March 8, 2006**, Mr. Quiram shall notify the County Attorney and the Administrative Law Judge of the relief he requests concerning the e-mail – that is, whether, in the event that he prevails at hearing, he would like to have the e-mail "completed, corrected, or destroyed" by the County<sup>5</sup>, and the witnesses he intends to call at hearing to address the accuracy of the e-mail. Mr. Quiram shall renew his request for the subpoenas he deems necessary.

4. That a hearing will be held on **April 4, 2006 at 10:00 a.m.** to consider the one remaining issue. The parties will be notified of the exact location of the hearing.

Dated this 16th day of February, 2006.

/s/ Beverly Jones Heydinger  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

## MEMORANDUM

The request for hearing arises out of an appeal to the Commissioner of Administration, pursuant to Minnesota Statutes section 13.05, subdivision 4, regarding data that Mr. Quiram maintains was kept about him by Le Sueur County. In the Notice of and Order for Hearing, the Commissioner requested that the Administrative Law Judge make findings on:

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<sup>4</sup> Mr. Christian sent a copy of the Motion to Dismiss to both Mr. Quiram and to Mr. Strauss. Neither one responded.

<sup>5</sup> Minn. Stat. § 13.04, subd. 4(b).

1. What items of data were challenged by Wayne Quiram in 2004; and
2. What items of challenged data were data about Wayne Quiram.
3. Whether such items of data were accurate and/or complete.

The Department forwarded all of the documents submitted by Mr. Quiram to the Administrative Law Judge.

The County requested a description of the data that was being challenged so that it could properly prepare for hearing. The Administrative Law Judge reviewed all of the documents that Mr. Quiram had sent to the Department of Administration and could not determine what data was specifically challenged, except for the e-mail dated May 28, 2002. In a letter dated January 5, 2006, the Administrative Law Judge gave Mr. Quiram the opportunity, similar to the opportunity to provide a more definite statement,<sup>6</sup> to clarify precisely what data he was challenging and the information that he alleged was inaccurate or had been excluded. After receiving Mr. Quiram's response, the County filed a Motion to Dismiss on the basis that Mr. Quiram failed to state a claim upon which relief can be granted.<sup>7</sup> Mr. Quiram did not respond.

Issue One: Did Kathy Brockway state at some county meeting that she had received complaints about a brush pile and that the DNR wanted it removed, as recorded in the meeting minutes?

Mr. Quiram alleged that complaints about his brush piles were recorded in some board minutes. To proceed with his claim in this proceeding, he was asked to identify the minutes to which he was referring, by date and by organization, and provide a copy or explain why no copy was available. The Department of Administration made the same request of Mr. Quiram prior to drafting the Notice of and Order for Hearing.<sup>8</sup> He replied that Ms. Brockway made the statements at "the meeting" while showing power point pictures, but does not indicate the date or to whom the statements were made. He has produced some minutes apparently of the meeting in question, but the minutes do not contain the statements he challenges. Mr. Quiram stated that the County denied him further access to the files.

The County denies that Mr. Quiram has been denied access to the files. Regardless, that claim is not within the scope of this proceeding. Despite repeated requests, first by the Department of Administration, and then by the Administrative Law Judge, Mr. Quiram has not been able to identify any meeting minutes that include a statement by Ms. Brockway that she had received complaints about Mr. Quiram's brush pile. Mr. Quiram cannot challenge in this proceeding a statement that he claims was made but was not recorded in the minutes. Thus, his claim concerning incomplete or inaccurate statements by Ms.

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<sup>6</sup> See Minnesota Rule of Civil Procedure 12.05.

<sup>7</sup> See Minnesota Rule of Civil Procedure 12.02(e).

<sup>8</sup> See Exhibits 11, 15, 17 and 18 to the Notice of and Order for Hearing.

Brockway made about him at a meeting and recorded in the meeting minutes is denied.

The only remaining claim related to whether there were complaints about Mr. Quiram's brush piles is whether the e-mail from Ms. Brockway to "Leo"<sup>9</sup> dated May 28, 2002 is accurate.

Issue Two: Are the minutes submitted to the Department of Administration as Exhibit 19 incomplete or inaccurate?

Mr. Quiram was asked to identify the date and entity from which the excerpted minutes were taken, specify exactly what was incomplete or inaccurate about him in the statements that he highlighted, and correctly state the information that he believes should be included. Mr. Quiram responded that the statements he referred to had been misquoted, but failed to specify any information about him that was inaccurate or incomplete. The closest is his statement that a portion of a state statute was included in the minutes when he had read the entire statute. It is not clear how shortening the reference to the statute provides inaccurate or incomplete information about him, nor has Mr. Quiram spelled it out so that the County can prepare to defend his claim. Apparently Mr. Quiram believes that minutes of a meeting should include verbatim transcripts of the participants' remarks, but he has cited no authority for that proposition.<sup>10</sup>

In light of its repeated, unsuccessful efforts to get clear answers about the data that Mr. Quiram contends are inaccurate or incomplete, the County should not be compelled to proceed to hearing on inarticulate claims. Accordingly, its motion to dismiss is granted, with the limited exception that there is one remaining claim concerning the accuracy of the identified e-mail that may proceed to hearing.

**B. J. H.**

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<sup>9</sup> This may be Leo Getsfried. See Ex. 16 to the Notice of and Order for Hearing.

<sup>10</sup> The Department of Administration denied Mr. Quiram's claim that the failure to read statutes and ordinances into the record involved data about Mr. Quiram. See Exhibit 20 to the Notice and Order for Hearing.