

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

James Stengrim,

Complainant,

vs.

Middle Snake Tamarac Rivers Watershed
District,

Respondent.

**ORDER DENYING PETITION
FOR RECONSIDERATION**

On March 9, 2011, James Stengrim filed a Complaint with the Office of Administrative Hearings (OAH) alleging that the Middle Snake Tamarac Rivers Watershed District (MSTRWD) violated Minn. Stat. § 13.44, subd. 3, by releasing data pertaining to the value of property owned by Mr. Stengrim. Pursuant to Minn. Stat. § 13.085, subd. 3(a), the Chief Administrative Law Judge assigned the matter to Administrative Law Judge Kathleen D. Sheehy on March 10, 2011.

After reviewing the Complaint and supporting materials, and the Respondent's response to the Complaint, the Administrative Law Judge determined that the Complaint did not present sufficient facts to establish probable cause to believe that a violation of Chapter 13 occurred. Accordingly, in an Order dated April 7, 2011, the Administrative Law Judge dismissed the Complaint.

On April 15, 2011, Complainant filed a Petition for Reconsideration of the Administrative Law Judge's Order of Dismissal with the Chief Administrative Law Judge, pursuant to Minn. Stat. § 13.085, subd. 3(c).

Based on the record herein, and for the reasons stated in the following Memorandum, the Chief Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED that Complainant's Petition for Reconsideration is **DENIED**.

Dated: April 22, 2011

s/Raymond R. Krause

RAYMOND R. KRAUSE
Chief Administrative Law Judge

NOTICE OF APPEAL RIGHTS

This order is the final decision in this matter under Minn. Stat. § 13.085, subd. 5(d), and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

Background

On April 7, 2011, the Administrative Law Judge issued an Order finding no probable cause to believe that Respondent violated the requirements of Minn. Stat. § 13.44, subd. 3. On April 15, 2011, Complainant requested reconsideration of the April 7, 2011 Order. Minn. Stat. § 13.085, subd. 3(c) provides that the Chief Administrative Law Judge must review a petition for reconsideration within ten business days to determine whether the assigned administrative law judge made a "clear material error."

Minn. Stat. § 13.03, subd. 1, creates a basic presumption that government data is public, unless classified otherwise by statute. Each government entity's responsible authority is required to "keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use."¹

In order to find probable cause, the ALJ must review the facts presented by the parties and make a determination of whether sufficient facts exist to believe that a violation of Chapter 13 has occurred. If, in the view of the ALJ, there are not sufficient facts to support a belief that violations have occurred the ALJ must dismiss the case.

¹ Minn. Stat. § 13.03, subd. 1 (2010).

Analysis

In this matter, the ALJ reviewed the facts and found that the settlement offer was made by Mr. Stengrim on January 21, 2009.² The authorization to conduct an appraisal was made by MSTRWD on January 26, 2009, in response to the settlement proposal.³ A review of the correspondence between counsel for the parties also demonstrates the intent of the MSTRWD was to evaluate the real value of the land offered so as to understand the value Mr. Stengrim was putting on the remaining terms.

Complainant argues in his Petition for Reconsideration that he is entitled to a hearing on the factual issue of whether the appraisal was for the purpose of purchasing the property or evaluation of a settlement offer. He alleges that there were some facts that could be interpreted to show that the appraisal was done for the purpose of a purchase. He argues that it was a clear error, therefore, to find no probable cause.

This is not a motion for summary disposition where, if a genuine dispute about the facts exists, a hearing must be held. Nor is the ALJ compelled to assume all the facts alleged must be reviewed in the light most favorable to the complainant. The ALJ's finding was that *insufficient* facts were alleged that would lead one to believe that a violation had occurred. On this record the ALJ's decision was not a clear material error.

Complainant also argues that the OAH is not bound by the decision of Information and Policy Analysis Division (IPAD) and should disregard the view expressed in the Commissioner's opinion pertaining to settlement offers. While the OAH as an "other tribunal" is not bound by the opinion of the Commissioner, that opinion is owed some deference. In this case, the Commissioner's statutory interpretation and opinion is reasonable and should not be disregarded.

Conclusion

The order dismissing Mr. Stengrim's Complaint alleging violations of the Minn. Stat. § 13.44 by the MSTRWD was not the result of clear material error. The Petition for Reconsideration is denied.

R. R. K.

² Ex. A.

³ Ex. B.