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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

LISA BOROWSKY,

Plaintiff,

vs.

**MARICOPA COUNTY ATTORNEY
RACHEL MITCHELL,**

Defendant.

No. CV2025-013199

**AMENDED COMPLAINT FOR
STATUTORY SPECIAL ACTION TO
SECURE ACCESS TO PUBLIC
RECORDS AND REQUEST FOR FEES
AND APPLICATION FOR ORDER
TO SHOW CAUSE**

Plaintiff Lisa Borowsky, a single person, submits this Amended Complaint for Statutory Special Action to Secure Access to Public Records pursuant to A.R.S. § 39-121, *et seq.* (the “Arizona Public Records Law”) and Ariz. R. Special Actions 106, and for fees and cost against the County Attorney Rachel Mitchell for failure to timely produce records, and hereby alleges as follows:

PARTIES

1. Plaintiff Lisa Borowsky (“Plaintiff” or “Borowsky”) is the duly elected Mayor of the City of Scottsdale, Arizona, and resides in Scottsdale, Arizona

2. By statute and case law, Ms. Borowsky may request to examine or be furnished copies of any public record, and public officers and public bodies are required to furnish copies of such records “promptly.” *See* A.R.S. §§ 39-121.01(D)(1) and (E).

4. By law, Defendant County Attorney Rachel Mitchell is required to “maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities that are supported by monies from the state or any political subdivision of the state.” A.R.S. § 39-121.01(B).

JURISDICTION AND VENUE

5. The events and omissions giving rise to this action occurred in Maricopa County, Arizona.

6. This Court has jurisdiction over the subject matter and the parties to this action.

7. Venue is proper in Maricopa County, Arizona pursuant to A.R.S. § 12-401.

GENERAL ALLEGATIONS

8. This complaint seeks inspection and copying of public records in accordance with A.R.S. § 39-121.02(A), which provides that “[a]ny person who has requested to examine or copy public records pursuant to this article, and who has been denied access to or the right to copy such records, may appeal the denial through a special action in the superior court, pursuant to the rules of procedure for special actions against the officer or public body.” By law, “[a]ccess to public records is deemed denied if a custodian [of such records] fails to promptly respond to a request for production of a public record.” A.R.S. § 39-121.01(E).

FACTS

9. On March 19, 2025, Lisa Borowsky, through her legal counsel Dennis I. Wilenchik, Esq., submitted a public records request to Ms. Rachel Mitchell, the Maricopa County Attorney at the Maricopa County Attorney's Office requesting, *inter alia*, the identity of individuals and other records, including communications from such individuals, who requested the Maricopa County Attorney to investigate and pursue criminal charges against Ms. Borowsky. A copy of the submitted request is attached and incorporated herein as **Exhibit 1**.

10. On April 4, 2025, the custodian of records for the Maricopa County Attorney's Office acknowledged receipt of the above records request but has not produced anything to Plaintiff thus far.

11. The outstanding requested records have not been produced by the Maricopa County Attorney's Office as of the time of filing of this Special Action Complaint after requests. The information requested is relatively discrete, and should not consist of more than just a few relevant documents which would determine the identity of who provided the "complaint" about Borowsky and or David Hovey Jr. to the MCAO. Despite this, no documents have been produced in a timely manner.

COUNT ONE

(Violation of A.R.S. §§ 39-121, *et seq.*)

12. Borowsky realleges and incorporates by reference the allegations set forth in paragraphs 1 through 11 of this Complaint.

13. The Arizona Public Records Law further provides that "[p]ublic records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours." A.R.S. § 39-121.

14. The records requested by Borowsky are indeed "public records" within the meaning of the Arizona Public Records Law. *See* A.R.S. § 39-121.01(B); *Lake v. City of Phoenix*, 222 Ari. 547, 549 (2009) ("Arizona law defined 'public records' broadly and creates a presumption requiring the disclosure of public information.").

15. By its failure to provide access to or copies of all of the requested records promptly, Defendant has "denied" Borowsky's public records request and has done so "wrongfully." *See* A.R.S. § 39-121.01(E) and § 39-121.02(C).

16. There is a strong public benefit in honoring the public's statutory right to inspect these public records, and Defendant has failed to articulate any specific harm or reason that should inhibit the release of the requested public records. There is no such harm, and Ms. Borowsky has given the Defendant ample opportunity to assert any.

1 17. Defendant has failed to perform its duties required under the Arizona Public
2 Records Law regarding requested records and has wrongfully denied Ms. Borowsky access to
3 inspect and copy these records as a matter of law in a timely manner, thereby entitling Borowsky
4 to her fees and costs incurred in having to file this Special Action. *See* Ariz. R. Special Actions
5 3.

6 **APPLICATION FOR ORDER TO SHOW CAUSE**

7 18. As set forth above, Defendant is prohibited by law from withholding the requested
8 records. Accordingly, pursuant to Rule 6(d), Ariz. R. Civ. P., and Rule 4(c), Ariz. R. of P. for
9 Spec. Actions, it is appropriate and proper for this Court to issue an Order to Show Cause why the
10 relief requested below should not be granted. A form of Order is attached hereto as **Exhibit 2**.

11 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

12 A. For an order setting a date and time for Defendant to produce all of the public
13 records requested by Plaintiff in her public records request dated March 19, 2025;

14 B. For issuance of an order to show cause why the relief requested should not be
15 granted;

16 C. For an award of attorneys' fees and related expenses pursuant to A.R.S. § 39-
17 121.02(B); and

18 D. For such other and further relief as the Court may deem just and proper.

19 **RESPECTFULLY SUBMITTED** on April 24, 2025.

20 **WILENCHIK & BARTNESS, P.C.**

21 /s/ Dennis I. Wilenchik
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28

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/s/ W. Denetsosie

EXHIBIT 1





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March 19, 2025

VIA REGULAR MAIL

Maricopa County Attorney's Office
Custodian of Records
225 West Madison Street, 3rd Floor
Phoenix, AZ 85003

Dear Sir or Madame:

Pursuant to the Arizona Public Records Law, A.R.S. § 39-121, *et seq.*, I hereby request access to and copies of all public records in the possession, custody, or control of the Maricopa County Attorney's Office relating to requests for investigation and potential criminal and/or ethical charges against Lisa Borowsky, Mayor of Scottsdale, Arizona, on or after February 10, 2025.

Specifically, this request includes, but is not limited to, the following records:

1. All written requests, including letters, emails, and formal or informal requests for your office to proceed with any investigation into Mayor Lisa Borowsky of Scottsdale between February of this year up through the present including but not limited to complaints, or any form of request for any action or review by your office of anything related to the Mayor and/or David Hovey Jr. of Optima Development and a parking garage to be built in downtown/old town Scottsdale submitted by members of the public or members of the Scottsdale City Council or the media.
2. All internal memoranda, reports, and other documents prepared by the Maricopa County Attorney's Office staff relating to the review or investigation of any such requests.
3. All records of communications, including emails, phone logs, and meeting notes, between the Maricopa County Attorney's Office and members of the public or members of the Scottsdale City Council regarding requests to investigate Ms. Borowsky.



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4. Any documents reflecting any decisions made by the Maricopa County Attorney's Office regarding whether to investigate or prosecute Ms. Borowsky based on these requests.
5. Any documents that specify the nature of the requested investigation, including but not limited to, alleged ethical violations, conflicts of interest, or specific criminal statutes.
6. Any documents reflecting the tender of any information about any of the foregoing with the media including the Arizona Republic
7. Any documents reflecting the County Attorney's Office being made aware by any complainant or whoever sent the information to your office about the Mayor and Mr. Hovey Jr. and the parking garage issue, sending the story about same to the media.

Please note that this request specifically pertains to records created on or after February 10, 2025.

Please provide the requested records in electronic format, if available. If electronic format is not available, please provide clear and legible paper copies. Please provide an estimate of the costs associated with fulfilling this request prior to proceeding. I understand that I may be charged for the reasonable costs of reproducing and providing the requested records. If any records are withheld, please provide a detailed explanation of the legal basis for the withholding, citing the specific statutory exemption relied upon.

Please acknowledge receipt of this request within five (5) business days and provide an estimated date for the production of the requested records.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dennis I. Wilenchik', written in a cursive style.

Dennis I. Wilenchik, Esq.

EXHIBIT 2



Superior Court Judge.