

2021 SEP 20 PM 3: 29

IN THE COURT OF CLAIMS OF OHIO

LOREN C. SENGSTOCK

Requester

v.

CITY OF TWINSBURG

Respondent

Case No. 2021-00330PQ

Special Master Jeff Clark

REPLY PLEADING

Now comes Requester, Loren C. Sengstock, as ordered by the special master for answers to the following:

***1. Do you accept that all disputed matters were resolved in mediation except for the withholding of names of City employees under the age of eighteen?***

Requester does accept that all disputed matters were resolved in mediation except for the withholding of names of City employees under the age of eighteen. Requester acknowledges the receipt from the Respondent of a computer system generated report of Individual Employee's healthcare deductions and a report of Personal Payroll deductions of employees.

***2. Provide any desired response to respondent City's representations of facts and arguments of law.***

Requester, Loren C. Sengstock, relied upon the following law and facts when a public records request was submitted to the Responder for a "Departmental Payroll Register as of 12/31/2020" on April 22, 2021 and received on May 20, 2021 from the City with a statement from the Finance Director that ***'Redactions have been made for personal***

*information which I believe falls under "items that do not document the activities of the public office". It also has been redacted for underage employee names'. Requester on May 26, 2021 submitted a request to the Responder for the ORC section(s) that authorized or allowed the redaction of minor(s) names. Responder, by and thru Law Director, David M. Maistros stated on June 1, 2021 "The City determined that it was not in the best interest of the children to not release their names as part of a public records request made by you. Although the Sunshine Law does not specifically prohibit the release of children's names from a records request, the decision was made to hold the privacy of children to a higher standard as compared to the adult employees. Some of our part-time and seasonal employees are as young as 16 years old. We believe that it is prudent to protect their identity from potential harm that could come to them by publishing their names and positions with the City." Responder, by and thru Law Director, David M. Maistros further stated "If you disagree with the City's position in this regard you can certainly pursue redress through the courts."*

Requester did then file a complaint, as a member of the public, on June 10, 2021 that was received on June 16, 2021 by the Ohio Court of Claims, as provided under Ohio Revised Code 2743.75 (D), stating in part that Requester was seeking redress through the court for a determination of whether the Responder had authority to redact minor public employees names or if the Ohio Revised Code authorized the redaction of any public employees names. Requester is not an attorney and begs the courts indulgence as to the form of this reply based solely upon his reading the Ohio Revised Code and the Ohio Sunshine Law manual provided by the Ohio Attorney General. The Requester is relying on the following in support of his complaint:

*Ohio Revised Code, Section 149.434 Public offices to maintain employee database;*

**(A) Each public office or person responsible for public records shall maintain a database or a list that includes the name and date of birth of all public officials and employees elected to or employed by that public office. The database or list is a public record and shall be made available upon request made pursuant to section 149.43 of the Revised Code.**

**(B) As used in this section:**

- (1) "Employee" has the same meaning as in section 9.40 of the Revised Code.**
- (2) "Public Official" has the same meaning as in section 117.01 of the Revised Code.**
- (3) "Public Record" has the same meaning as in section 149.43 of the Revised Code.**

**Ohio Revised Code, Section 9.40 Payroll deduction for United States savings bonds.**

**Any public employee of the state, or any political subdivision thereof, who desires to purchase United States savings bonds by the payroll deduction plan shall be granted such payroll deduction upon request to the head of the state or political subdivision department by whom he is employed.**

**As used in this section, "public employee" means any person holding an office, not elective, under the state, any county, municipal corporation, park district, conservancy district, sanitary district, health district, township, or public library, or employed and paid in whole or in part by the state or any of such named authorities in any capacity.**

The Ohio Supreme Court recognized the distinction between private citizens personal information and 'public employees' in regards to Public Records laws in *State ex rel. McCleary v. Roberts*, 88 Ohio St.3d 365, 725 N.E.2d 1144 (2000)

**Moreover, the personal information requested is not contained in a personnel file. At issue here is information regarding children who use the City's swimming pools and recreational facilities. The subjects of appellee's public records request are not employees of the government entity having custody of the information. They are children-private citizens of a government, which has, as a matter of public policy,**



WHEREFORE, for the reasons set forth herein Requester, Loren C. Sengstock respectfully requests this Honorable Court order Respondent to resubmit the 'Departmental Payroll Register as of 12/31/2020' to Requester without redaction of any 'public employee' name(s).

Respectfully submitted,

/s/ Loren C. Sengstock

**Loren C. Sengstock, Requester**

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**CERTIFICATE OF SERVICE**

A copy of the foregoing has been sent by regular U. S. Mail on September 16, 2021 to:

Law Director, David M. Maistros

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Attorney for Respondent

*/s/ Loren C. Sengstock*

**Loren C. Sengstock, Requester**