

Joe Gimenez

345 Coventry Road • Spicewood, Texas 78669 • (713) 478-8034

September 19, 2023

Eddie Arredondo, County Attorney
Burnet County Courthouse
220 S. Pierce
Burnet, Texas 78611
512-756-5476

Dear Mr. Arredondo,

Please consider this formal complaint of violations of the Texas Public Information Act ("the Act") by elected officials of the Windermere Oaks Water Supply Corporation ("WOWSC"), namely two of its directors, Rene Ffrench (Secretary-Treasurer) and Jeff Walker (Director).

My reason for filing this formal complaint with you comes from my reading page 58 of the 2022 Public Information Handbook of the Office of the Attorney General. It says a requestor must bring formal complaint of violation to the county attorney. This submission is predicated on that understanding. Please advise if I should pursue a different approach.

WOWSC, located at 424 Coventry Rd., Spicewood, TX 78669, operates under Chapter 67 of the Texas Water Code, providing retail water and wastewater service to customers in Burnet County, Texas. WOWSC is mandated to comply with the Act as defined in section Texas Government Code section 552.003(1)(a).

On August 21, 2023, I submitted a Public Information Act (PIA) request to the WOWSC (Exhibit 1). The request was submitted after business hours and thus became actionable for WOWSC on Tuesday, August 22, 2023, with due date of Wednesday, September 6, to account for the Labor Day Holiday. The PIA request was directed to Mr. Ffrench and Mr. Walker, for their correspondence, emails, texts, posts, etc. and records to which Mr. Ffrench, in his capacity as the Windermere Secretary-Treasurer, has access (bank records, agendas, stop payment requests, etc.) You will see that Mr. Richard Schaeffer and Mr. Cole Ruiz were cc:ed on the request. Mr. Schaeffer is president of the WOWSC Board and Mr. Ruiz, employed by Lloyd Gosselink Rochelle & Townsend P.C., serves as WOWSC general counsel.

Pursuant to TGC Section 552.221(a), a governmental body must either release requested information promptly, or, if not within ten (10) days of receipt of request, its Public Information

Officer ("PIO") must certify fact that governmental body cannot produce the information within 10 days and state date and hour within reasonable time when the information will be available. Otherwise, the entity must seek exception from the State Attorney General with specific reason for exceptions, within the 10-day period.

As of date of this complaint, 19 business days will have passed since the August 22 actionable submission date. Mr. Ruiz on August 15 did supply responsive information to the request for materials relating to an appeal filed in the matter of Case #48292 in Burnet County District County. Prior to that, Mr. Ruiz and Mr. Schaeffer had called and emailed me to inform that Mr. Walker and Mr. Ffrench had not responded to their requests for timely production of requested materials. (Exhibit 2). Thus, Mr. Ffrench and Mr. Walker have not complied with 552.221(a): they have not sought Attorney General ruling to withhold information, nor clarification of the request, nor extension of deadline with specificity for fulfillment.

In reviewing this complaint, you should note that Mr. Walker and Mr. Ffrench are familiar with PIA laws. They have simply ignored them.

Mr. Walker initially acknowledged the August request, saying that he "would crank up the printer" and had "nothing to hide," thus confirming his understanding and receipt of the request (Exhibit 3). He not made further contact. Responsive documentation has not been provided.

Mr. Ffrench has not responded at all, in any manner. But he is familiar with PIA laws. As background for that assertion: From March 2019-April 2023 I was President of the WOWSC Board of Directors and completed the Texas Attorney General's Texas Public Information Act training course on June 4, 2019. From March 9, 2019, through April 15, 2023, I served as Windermere's Public Information Officer. In that capacity, I fielded more than 150 public information act requests. Mr. Ffrench made seven (7) Public Information Act requests to the WOWSC and in five (5) of the seven, Mr. Ffrench advised:

"For your information, Section 552.221 of the Local Government Code states that "The officer for public information must "promptly" produce public information in response to an open records request. "Promptly" means that a governmental body may take a reasonable amount of time to produce the information but may not delay. It is a common misconception that a governmental body may wait ten business days before releasing the information. In fact, as discussed above, the requirement is to produce information "promptly." What constitutes a reasonable amount of time depends on the facts in each case. The volume of information requested is highly relevant to what constitutes a reasonable period. I do not suspect obtaining these documents should be cumbersome to the public information officer."

One such PIA request is provided as Exhibit 4. Thus Mr. Ffrench has previously exhibited knowledge of the Act before becoming a director in April 2023. Now, however, Mr.

Ffrench ignores the Act.

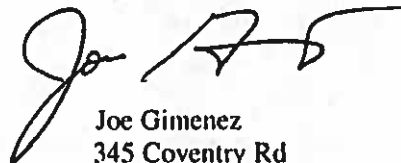
As stated, I have not received any responsive documents from Mr. Ffrench. Secondly, Mr. Schaeffer and Mr. Ruiz confirmed to me their unsuccessful efforts to attain the requested information from Mr. Ffrench (and Mr. Walker).

Further discussion in the Attorney General's Handbook notes that the Public Information Act has criminal penalties for withholding information. Section 552.352 (a) says: "An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by this chapter." Violation of 552.353 constitutes official misconduct, a misdemeanor punishable by confinement in a county jail for not more than six months, a fine not to exceed \$1,000, or both confinement and fine.

Through their actions and inactions, Mr. Ffrench and Mr. Walker have displayed a "catch me if you can" attitude toward the request itself and to those within WOWSC (Mr. Schaeffer and Mr. Ruiz) attempting to comply with the law.

I am not an attorney, but in reading the Attorney General's handbook, it appears that a court could issue a writ of mandamus for Mr. Ffrench and Mr. Walker to comply with the law. I would suggest that Mr. Ffrench and Mr. Walker, having already displayed disregard, could be subject to a continuing mandamus order to comply with future requests, and there should be some sort of third-party verification that they are complying with the request for emails, etc., regarding the business of the WOWSC. Somehow, Mr. Ffrench and Mr. Walker should be dissuaded from making this an ongoing habit, so that your valuable time is not further wasted on such matters. This and any other relief would be much appreciated.

Respectfully submitted,



Joe Gimenez
345 Coventry Rd
Spicewood, Texas 78669
(713) 478-8034
1129jgg@gmail.com

Exhibit 1



joe gimenez <1129jgg@gmail.com>

Public Information Act Request - August 21, 2023

Joe Gimenez <1129jgg@gmail.com>

Mon, Aug 21, 2023 at 5:19 PM

To: Rene Ffrench <lrfrench@gmail.com>, Jeff Walker <walker.jeff@gmail.com>

Cc: Richard T Schaefer <schaefer@rts-services.com>, Cole Ruiz <cruiz@lglawfirm.com>

Dear Mr. Walker and Mr. Ffrench,

With this email, I am submitting a public information request per my rights under the Texas Public Information Act to obtain the following:

- All your correspondence to and from members of the WOWSC, banks, corporations, members of the public, including Kathryn Allen, the PUC, the water company manager, Corix Utilities -- basically anybody, including Henry and Harry Hass, but except for lawyers of the WOWSC -- regarding any and all matters of the Windermere Oaks Water Supply Corporation. This would include all text messages, letters, emails, voice mail messages, email messages on your personal email addresses as well as emails on place1@wowsc.org, place3@wowsc.org etc.
- All documents pertaining to the appeal filed by Mr. Ffrench, Mr. Sorgen and Mr. Dial in the matter of 48292, that is, Ffrench, Sorgen, Dial vs. Defendant Directors and WOWSC. Please include the date-stamped copy by the court, as well as any subsequent filings of any other parties in the matter.
- Draft minutes of all Board meetings after the April 15, 2023 Annual members meeting.
- Copies of any and all recordings of the Zoom recordings of the Board meetings held since April 15, 2023 annual meeting.
- All forms completed and signed by Mr. Ffrench with regards to his duties as Treasurer at First United Bank, including but not limited to checks, payment cancellations, etc.
- All agendas filed with Burnet County for posting.
- All correspondence with WOWSC members, Board members, members of the public regarding agendas, posting of agendas, etc. This should be part of the correspondence requested in first item, but it bears reiteration that I want any and all correspondence regarding any topic.

Thank you in advance for your completion of this task. Since it is being delivered after 5 p.m. on Monday, August 21, and a holiday occurs on Sept. 4, the 10-day deadline for your responses is due no later than close of business, Wednesday Sept. 6. However, per the Public Information Act, you should respond as quickly as possible.

Thank you for your service to the Windermere Oaks Water Supply Corporation.

Best regards,

Joe Gimenez

Exhibit 2

TPIA Request

2 messages

Cole Ruiz <cruiz@lglawfirm.com>

Thu, Sep 7, 2023 at 2:30 PM

To: "Joe Gimenez - Windermere Oaks Water Supply Corporation (1129jjg@gmail.com)" <1129jjg@gmail.com>

Cc: Richard T Schaefer <schaefer@rts-services.com>

Joe,

Thanks for chatting with me earlier this afternoon. As discussed, we're in the process of gathering the requested information, and will provide you with all responsive documents and records, unless otherwise excepted under the Texas Public Information Act as soon as possible.

Thanks,

Cole



COLE RUIZ
Attorney
512-322-5887 Direct
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900, Austin, TX 78701
www.lglawfirm.com | 512-322-5800



Your text here!

****ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT ****

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.

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Joe Gimenez <1129jjg@gmail.com>

Thu, Sep 7, 2023 at 2:38 PM

To: Cole Ruiz <cruiz@lglawfirm.com>


Cc: Richard T Schaefer <schaefer@rts-services.com>

Thank you Cole. I appreciated the phone call and this note. And per our conversation, I do want to record my observation that the fulfillment of the request is now late, and that the recipients of the request, Mr. French and Mr. Walker, had adequate opportunity to respond promptly to my request, with at least the emails sent and received in their email accounts. They did not do so per the PIA law.


I look forward to receipt of the responsive documents.


Best regards,
Joe
[Quoted text hidden]

6 attachments

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1K

 **image785472.png**
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 **image014113.png**
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 **image014113.png**
1K

 **image785472.png**
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 **image143812.png**
1K

Exhibit 3



joe.gimenez <1129jgg@gmail.com>

Public Information Act Request - August 21, 2023

Jeff Walker <walker.jeff@gmail.com>

Mon, Aug 21, 2023 at 5:34 PM

To: Joe Gimenez <1129jgg@gmail.com>

Cc: Rene Ffrench <lrffrench@gmail.com>, Richard T Schaefer <schaefer@rts-services.com>, Cole Ruiz <cruiz@lglawfirm.com>

No problem.

I will crank up the printer and send what I published. I have nothing to hide.

As far as the 2 special board/member meeting Rene and I called, per the bylaws, since we did not have a quorum at either meeting no formal meeting was never held. So we immediately turned into a Town hall. We let the members speak, including me as a member.

More to follow.

Interesting why you included Mr. Cruz on this request.

[Quoted text hidden]

Eddie Arredondo

From: Eddie Arredondo <earredondo@burnetcountytexas.org>
Sent: Monday, September 25, 2023 4:02 PM
To: 'Joe Gimenez'
Cc: 'Colleen Davis'; 'Scott Keese'; 'Jana Mitchell'
Subject: RE: Letter of Complaint re Official Misconduct

Mr. Gimenez,
How does Friday at 10 sound? My office is in the courthouse on the first floor at 220 S. Pierce Street in Burnet.
Eddie Arredondo
Burnet CA

From: Joe Gimenez <1129jjg@gmail.com>
Sent: Monday, September 25, 2023 2:39 PM
To: Eddie Arredondo <earredondo@burnetcountytexas.org>
Subject: Re: Letter of Complaint re Official Misconduct

Mr. Arredondo,

Thank you so much for your response. Yes, I would be willing to meet on Friday. At your convenience, just name the time.

Yes, the PIO Rich Schaefer did provide documents in his control that involved Mr. Walker and Mr. Ffrench, but I am aware of other documents that Mr. Walker and Mr. Ffrench should have supplied to myself or Mr. Schaeffer but have not. Apparently Mr. Walker also wrote to another Board member that he was not going to fulfill my request at all.

Here is what I received Thursday Sept 21 from the PIO, after my letter to you.

Public Information Request (PIR) on August 21

Inbox

Search for all messages with label Inbox

Remove label Inbox from this conversation



Richard T Schaefer

to me

Joe,
The following will provide you with Cloud Storage containing the information that I was able to get relative to your PIR.

I scanned my email that have Mr Walker and Mr French as a source or recipient email address. This of course is only a subset of what you asked for ... but without their cooperation this is all I could find. A spreadsheet that list all of the emails is also available. The file names start with a mail ThreadID and unique MessageID and either for messages in the thread and then either Msg or Attach. Then the subject and send for a Msg and file name for an attachment.

The information I received from First United is presented. Mr French has NOT signed any checks nor has he logged in via the internet. He has phoned in the two stop payments listed.

The Agendas from Burnet county are just the ones that I happened to download. A complete list needs to come from Mr Walker and Mr French. They have not response to me relative to your PIR.

The Cloud Storage Location is:

https://drive.google.com/drive/folders/1-1yfhCTCYnO_LfbDiuPFmhZ3kJsaOoFk?usp=sharing

regards,

Richard T. Schaefer
President of WOWSC

On Mon, Sep 25, 2023 at 2:26 PM Eddie Arredondo <earredondo@burnetcountytexas.org> wrote:

Mr. Gimenez,

Thank you for allowing me a day or two to respond to your complaint. Since writing to me, have you received any of the requested information or had contact from the individuals from whom you made your request? If not, would you be open to coming to Burnet to visit with me about the situation? Would you be open to meet sometime on Friday?

Eduardo Arredondo
Burnet County Attorney

From: Eddie Arredondo <earredondo@burnetcountytexas.org>
Sent: Wednesday, September 20, 2023 8:40 AM
To: 'County Attorney' <countycastle@burnetcountytexas.org>; 1129jig@gmail.com
Cc: 'Colleen Davis' <cdavis@burnetcountytexas.org>
Subject: RE: Letter of Complaint re Official Misconduct

Mr. Gimenez,

I am in receipt of your complaint. Please know that my attorneys and I are out this week receiving training. Please allow me into next week to review the complaint and respond.

Respectfully,

Eduardo Arredondo

Burnet County Attorney

From: County Attorney <countyattorney@burnetcountytexas.org>

Sent: Tuesday, September 19, 2023 12:56 PM

To: Eddie Arredondo <earredondo@burnetcountytexas.org>

Subject: Fwd: Letter of Complaint re Official Misconduct

----- Forwarded message -----

From: Joe Gimenez <1129jig@gmail.com>

Date: Tue, Sep 19, 2023 at 10:06 AM

Subject: Letter of Complaint re Official Misconduct

To: <countyattorney@burnetcountytexas.org>

Hello,

Please confirm receipt of this email and its attachment, a formal complaint of official misconduct by board directors of the Windermere Oaks Water Supply Corporation.

Sincerely,

Joe Gimenez

345 Coventry Rd, Spicewood, TX 78669

713.478.8034