

DESCHAMPS & KORTEMEIER LAW OFFICES, P.C.

Lee Deschamps & Stephen Karl Kortemeier

Attorneys and Counselors at Law

Tuesday, May 29, 2012

Ms. Lorna M. Wiggins, Esq.
P. O. Box 1308
Albuquerque, NM 87103-1308

Re: Yours of 5/21/12 -- Socorro Elec. Co-op "Tapes"; FOIR; Tortious Conduct

Dear Ms. Wiggins,

I have reviewed your letter above referenced, and unfortunately, must decline your several invitations contained therein, as follows:

I am unsure of how you arrive at the basis for your demands. Perhaps you could cite some authority for your possession, because as I understand the law regarding executive session, there is nothing to prevent one from recording, taking notes, or otherwise memorializing the contents of such meetings.

RETURN OF THE TAPES: If appropriate in a law suit, any one of the Trustees could certainly testify to the occurrences or what was said at a meeting and by whom, and should one try to "impeach" such testimony, the tapes would most certainly assist a trier of fact in determining the truth. I believe the purposes of Executive sessions—if properly called and conducted—are to allow free discussion of sensitive matters in private, and the mere recording of these sessions does nothing to violate that principle. Were the contents to be disseminated however, then that might be a different matter. Of course, there would be no need to publish any of the contents of such meetings unless some of the other trustees were to misrepresent the facts discussed or one's conduct at those meetings. Knowing as I now do of your clients' vital concerns for the sanctity of the privacy of the executive sessions, I am now certain that none of them would in any way participate in any such misrepresentation—let alone while under oath and subject to possible perjury charges for willfully lying.

Mr. Wagner has recorded these meetings as insurance against what he and I—and most of the entire community—believe is a vicious and on-going campaign by a majority of the Board to discredit and punish him in every way possible. Given the fact that Mr. Wagner is being systematically castigated and slandered for merely trying to get the Board to act in a legal, lawful, fair and appropriate manner, and given the fact that the Co-op has gone so far as to try to manufacture false allegations of attempted rape, I have advised Mr. Wagner to continue to maintain his actual or constructive possession of these tapes and we will continue to do, barring a court directive to the contrary.

IDENTIFICATION OF PERSONS IN POSSESSION: Any and all copies are in the possession either of Mr. Wagner or his various legal counsel, were prepared at my instruction, and are considered to fall within attorney-client privilege, as they were made expressly in anticipation of litigation.

IDENTIFICATION OF MEETING DATES: As for identifying the dates of the taped meetings, I see little to be gained in making that disclosure, other than assisting them in knowing whether or not

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possibly impeaching evidence exists or not with regard to any particular meeting, or whether or not it was conducted legally. Since I have no need to assist nor to encourage any further subversion of the law, I will not be supplying that information either.

ADDITIONAL: (FIRST) Since you have had the information for a week tomorrow, I am disappointed that your busy schedule did not permit an earlier 2nd response to Ms. West's FOIR, as I am informed that it is your position that we may not have the addresses, but only the names of the membership. If my understanding is correct, I once again have difficulty in understanding your position. Since address information generally is readily made public in many ways, including telephone directories, on the internet, and in voter registration lists available at every County Clerk's office, how do you justify stone-walling a valid FOIR, particularly in light of the authority I have previously furnished to you, except as an effort to thwart a grass roots movement among the membership—the very type of movement that such authority is designed to encourage.

ADDITIONAL: (SECOND) Please explain the Board's action, under your advice, taken at the last Board Meeting, regarding Mr. Wagner's expense reimbursements, as I understand the Board has been previously instructed—even by their prior "in house" attorney Mr. Francish, that Mr. Wagner's position is correct on this matter.

ADDITIONAL: (THIRD) I am informed that the Co-op has barred Mr. Wagner from the exercise of his rights and obligations as a trustee, including attendance at executive sessions, effectively "removing" him from the position of Trustee and effectively disenfranchising the members of his District.

IN SUM The problems I see with the Board's positions include, but are not limited to, the following:

- Violation of "one person-one vote" rights of the members;
- Whistle blower liability;
- Federal civil rights violations;
- Intentional Tort liability;
- Intentional Interference with Economic Relations Tort Liability
- Misfeasance, Nonfeasance, and Malfeasance in office as cause for Removal of Board members knowingly and actively participating in foregoing conduct;

As you can probably guess, I am not an extremely patient man, and unless I receive a relevant reply to the issues raised herein by Monday, June 4, 2012, close of business, I will be preparing and filing appropriate legal actions thereafter.

Sincerely,

Deschamps & Kortemeier Law Offices, P.C.
by:

Lee Deschamps
LD/lad

Cc's: File & Client

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