Date

EAXMPLE OF CONTACT

Sherrie Swenson

Salt Lake County Clerk

2001 South State Street, S2-200

Salt Lake City, UT 84114

Dear Ms. Swenson,

I am writing to appeal your office’s denial of my request for a fee waiver for two GRAMA requests seeking information about how many ballots your office adjudicated in the 2020 general election. I sought a fee waiver because this request, as discussed in more detail below, “primarily benefits the public rather than a person.” 63G-2-203(4)(a). As discussed in more detail below, I am asking you to reverse your office’s decision and waive the fee. In the interest of time, I also am submitting a check for $209.33 so that the search can commence while you decide this appeal.

***Background***

As background, I am chairman of a committee that is evaluating the Salt Lake County voting system to determine what vulnerabilities we have and what improvements can be made to protect the integrity of our elections. One of the members of my committee originally submitted a request seeking “[t]he number of ballots adjudicated in the 2018 election for all elections. The number of ballots adjudicated in the 2020 election for all elections.” Exhibit A. In response, your office stated that you “do not maintain a record of the number of ballots adjudicated in the 2018 elections or the 2020 elections.” *Id*. As an aside, when we requested a log of duplicated ballots, your office produced a log. I was surprised that your office does not also track the number of ballots that it adjudicated.

After we received your office’s response about its failure to track the number of adjudicated ballots in the 2018 and 2020 elections, we submitted two GRAMA requests to try to get any information that could help us determine how many ballots your office adjudicated in the 2020 general election (your office’s responses to those requests are enclosed as Exhibits B and C with this letter). Below is the language of those requests:

* Please provide all documents, emails, correspondence that show the dates and times that ballots were duplicated or adjudicated, who duplicated or adjudicated ballots at those times, and who was involved in being a poll watcher when ballots were being duplicated or adjudicated.
* All documents, emails, text messages, correspondence that discuss or mention the adjudication of ballots cast for the 2020 General Election including any discussion about the dates and times ballots were adjudicated, how many ballots were adjudicated, and who was involved with adjudicating the ballots.

Your office provided a partial response to the first request. In response to both requests, your office denied our request for a fee waiver and asked for $209.33 to have the Salt Lake County IT Department and your office search for records that we are being forced to request because your office failed to keep a log of the ballots that it adjudicated in the 2020 (and 2018) general election. As discussed further below, the denial of the fee request was improper because the information being sought clearly “primarily benefits the public rather than the person.” I ask that you reverse the decision and waive the fee for these requests.

***Analysis***

Ballot adjudication is used when “a question arises regarding a vote recorded on a manual ballot [*i.e.*, a paper ballot] . . . [and] two counting judges . . . determine the disposition of the vote . . . .” 20A-4-105(1)(a), (b). In other words, when your office adjudicates a vote, your employees, without the voter’s participation, determine how they believe a voter intended to cast their vote. If your employees make the wrong decision, they have essentially stolen a citizen’s vote.

Voters have a right to know about ballot adjudication, including how many ballots were adjudicated, why they were adjudicated, who was involved with ballot adjudication, and who poll watched ballot adjudication. There are at least two reasons that voters in Salt Lake County will find information about ballot adjudication useful. First, it will help voters understand why ballots are being adjudicated so they can understand how to cast their vote to prevent that from happening because I highly doubt any voter wants his or her ballot to be adjudicated by your employees. For example, a voter may choose to vote in person to prevent your office from being able to adjudicate his or her vote. The other reason voters have a right to know how many ballots were adjudicated is that many races in Salt Lake County are close. For example, Councilmember Laurie Stringham won her race by 1,189 votes. If the margin of any race is less than the number of ballots your office adjudicated, there may be reasons to reevaluate those votes to determine whether your employees have made mistakes in determining intent, to exclude those votes from the count, or to initiate a forensic audit of the election.

An additional reason to waive the fee is that my committee will eventually make all of this information public as part of our report on Salt Lake County’s election system. Our goal is to educate the public about the vulnerabilities in our system, make recommendations for our state legislature to improve election integrity in our state, and help voters determine the best way to cast their own votes to prevent County employees from duplicating or adjudicating their votes. Moreover, we are only being forced to seek this information because your office failed to keep a log or track the number of ballots that were adjudicated in the 2020 (and 2018) general election. In sum, we ask that you reverse your employee’s decision and waive the fee because (1) this information primarily benefits the public, and (2) we are only being forced to request this information due to your office’s failure to track this critical information that the public has a right to know.

I look forward to your response. Feel free to reach out if you have any questions or need anything else to make your decision. Thank you.

Sincerely,

Name

Address

Phone Number

Email