



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

VIA e-mail, hand delivery and 1st class mail

March 28, 2013

Assemblyman William Horne
Nevada Legislature
401 S. Carson Street
Carson City, NV 89701-4747

Legislative Counsel Bureau
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

Re: Open Records Request

Dear Ladies and Gentlemen:

For purposes of the following Nevada Public Records request, this office represents the following media organizations ("Media Organizations"):

The Las Vegas Review-Journal
The Las Vegas Sun
The Reno Gazette-Journal
The Nevada Appeal
The Associated Press
Nevada Press Association
KLAS-TV, Channel 8, Las Vegas

Las Vegas City Life
Las Vegas Weekly
El Tiempo, Las Vegas
VegasInc.
Pahrump Valley Times
Mesquite Local News
Las Vegas Business Press

Pursuant to NRS 239.010, *et seq*, the Media Organizations seek the following the public records in your possession:

A copy of the report prepared for the Nevada Assembly in connection with the possible expulsion of Assemblyman Steven Brooks ("the Brooks Report").

While we acknowledge that the Brooks Report may contain information protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) we expect that you will only redact information expressly covered by HIPAA's exclusionary provisions.

In the unfortunate event you elect to withhold the Brooks Report, we wish to advise you in advance that we will seek attorneys' fees as is our right under Nevada law. Accordingly, should the report be withheld, demand is made that you provide us with a

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comprehensive citation to the legal authority that justifies nondisclosure. As the Nevada Supreme Court noted in *Reno Newspapers, Inc., v. Gibbons*, 266 P.3d 623 (2011):

“In response to the RGJ's prelitigation request for Governor Gibbons' e-mails, the State informed the RGJ that “all [the requested] emails are either privileged or are not considered public records.” Following this blanket denial, the State summarily listed DR Partners, California caselaw, a Nevada Attorney General Opinion, and the State of Nevada Policy on Defining Information Transmitted via E-mail as a Public Record. The State provided no explanation whatsoever as to why the cases it cited actually supported its claim of confidentiality or were anything other than superfluous. We cannot conclude that merely pinning a string of citations to a boilerplate declaration of confidentiality satisfies the State's prelitigation obligation under NRS 239.0107(1)(d)(2) to cite to “specific” authority “that makes the public book or record, or a part thereof, confidential.”

In *Reno Newspapers*, the Court also concluded:

“... **the provisions of the NPRA place an unmistakable emphasis on disclosure (emphasis supplied).** The NPRA expressly provides that its provisions “must be construed liberally” to ensure the presumption of openness and explicitly declares that any restriction on disclosure “must be construed narrowly.” NRS 239.001(2)-(3). In harmony with the overarching purposes of the NPRA, the burden of proof is imposed on the state entity to prove that a withheld record is confidential. NRS 239.0113. Equally unmistakable is the emphasis that our NPRA jurisprudence places on adequate adversarial testing. Indeed, the framework established in *Bradshaw*, *DR Partners*, and *Reno Newspapers v. Sheriff* exemplifies an intensely adversarial method for determining whether requested records are confidential.”

Please inform me at your very earliest opportunity as to when you will make the Brooks Report available to my clients so that I might immediately dispatch a courier to obtain the same.

Respectfully submitted,

CAMPBELL & WILLIAMS


Donald J. Campbell, Esq.

cc: All Named Clients