

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

RUSSELL BIGGS

Plaintiff(s),

vs.

MUNICIPALITY OF ANCHORAGE and
BARBARA JONES, Municipal Clerk

Defendant(s).

CASE NO. 3AN-22-07395CF

**SUMMONS AND
NOTICE TO BOTH PARTIES
OF JUDICIAL ASSIGNMENT**

To Defendant: Municipality of Anchorage

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Chandler, Falconer, Munson & Cacciola, LLP, whose address is: 911 West 8th Avenue Suite 302, Anchorage, Alaska 99501

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at <https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf> to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(l).

NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

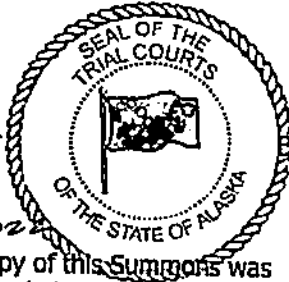
You are hereby given notice that:

This case has been assigned to Superior Court Judge Walker
and to a magistrate judge.

This case has been assigned to District Court Judge _____

CLERK OF COURT

08/01/2022
Date



by: [Signature]
Deputy Clerk

I certify that on 08/01/2022 a copy of this summons was mailed given to
 plaintiff plaintiff's counsel along with a copy of the
 Domestic Relations Procedural Order Civil Pre-Trial Order
to serve on the defendant with the summons.
Deputy Clerk [Signature]

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP
911 W. 8th Avenue, Suite 302
Anchorage, Alaska 99501
(907) 272-8401 Fax (907) 274-3698

Samuel C. Severin
Alaska Bar No. 0606035
CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP
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sseverin@bcfaklaw.com

Attorneys for Russell Biggs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

RUSSELL BIGGS,)
)
Plaintiff,)
)
vs.)
)
MUNICIPALITY OF ANCHORAGE)
And BARBARA JONES, Municipal)
Clerk, in her Official Capacity,)
)
Defendant.)
)

Case No. 3AN-22-07395 CI

COMPLAINT

COMES NOW Plaintiff Russel Biggs, through undersigned counsel of Chandler, Falconer, Munson & Cacciola, LLP, and alleges and complains as follows:

1. Plaintiff Russell Biggs is a resident of Anchorage Alaska.
2. Defendant the Municipality of Anchorage (the Municipality) is a home rule municipality in Alaska and is subject to the jurisdiction of this Court. Defendant Barbara Jones

Complaint
Case No. 3AN-22-07395 CI

(Jones or the "Clerk") is being sued in her official capacity as the municipal clerk of the Municipality.

3. This Court has jurisdiction pursuant to AS 22.10.020 and AS 40.25.140.

4. AS 40.25.140 expressly provides that a suit may be brought in superior court to compel production of public records, or to enjoin the hindrance of production of documents subject to public records disclosure laws.

5. Notwithstanding the statutory remedy, the superior court has authority and jurisdiction to compel the Municipality or its agents to comply with state and municipal laws regarding public records disclosures.

6. On or about March 23, 2022, the Municipality acknowledged a receipt of a public records request from Plaintiff for "*Any communication, or email sent to or from an IP address under the jurisdiction of the Clerk to the email address: blue@thebluealaskan.com or domain www.thebluealaskan.com.*"

7. The request was assigned the number 2022-16.

8. Through subsequent correspondence on March 25, the date range was clarified to include only correspondence between April 1, 2020 and March 23, 2022. At the suggestion of municipal staff, Mr. Biggs agreed to exclude e-mails from temporary election workers from the request.

9. Municipal staff had previously engaged in informal status updates, but have not provided any actual estimate of when to expect the records.

10. Anchorage Municipal Code § 3.90.060 requires that public records be “furnished promptly unless the information is privileged or confidential.” If items are determined privileged, a privilege log is to be prepared.

11. AMC § 3.90.010 states, “It is the policy of the municipality to provide the fullest and most rapid public access to municipal records and information so that the right of the people to remain informed is protected. In enacting this measure, the assembly recognizes the competing interests of personal privacy and the right of the public to have access to information concerning the conduct of the people's business. This chapter shall therefore be liberally construed to require full disclosure of all public records in the possession or control of any municipal agency, except those specifically exempted under section 3.90.040.”

12. On July 11, 2022, undersigned counsel sent a letter, as an e-mail attachment, to Ms. Jones and the counsel for the Anchorage Assembly, requesting an update on Public Records Request 2022-16. The letter also suggested the parties could agree on phased production. The letter and e-mail transmitting it are attached as Exhibit 1.

13. To date, the Municipality has not responded to the July 11 letter.

14. The Municipality’s only meaningful correspondence has been related to limiting the scope of the request.

Count I (Injunctive Relief)

15. Plaintiff realleges and incorporates paragraphs 1 through 14 of his complaint as though fully set forth herein.

16. Defendant Municipality of Anchorage has failed to comply with AMC 3.90.

Plaintiff requests injunctive relief compelling production of the records requested, as specified in paragraphs 6 and 7 of the Complaint, subject to appropriate and lawful redaction if necessary.

Count II (Additional Relief)

17. Plaintiff realleges and incorporates paragraphs 1 through 16 of his complaint as though fully set forth herein.

18. Any appeal of the scope of production or claims of privilege would be to the Anchorage Assembly, pursuant to AMC 3.90.060 C.

19. On April 19, 2022, Mr. Biggs appealed Records Request 2022-13 to the Anchorage Assembly.

20. Counsel for Mr. Biggs was strictly and arbitrarily restricted in making any oral argument.

21. In its deliberations and limited discussion, the assembly did not even make one reference to the actual text of AMC 2.30.036, the ordinance which was dispositive of the appeal. The failure to even reference the applicable law in a formal appeal suggests the assembly is biased against Mr. Biggs or just has little interest in the letter of their own laws.

22. After production of the records requested in this case, Plaintiff requests this Court retain jurisdiction pursuant to AS 40.25.125 to adjudicate any dispute regarding the records produced and enter appropriate orders.

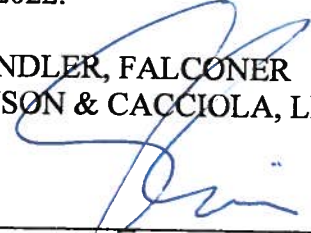
PRAYER FOR RELIEF

WHEREFORE, Plaintiff Russell Biggs prays for the following relief:

1. For an order compelling the Municipality to timely and lawfully comply with the laws relating to public records and enjoining the Municipality from withholding the requested records.
2. For additional orders as may be necessary to ensure compliance with state and local public records laws.
3. For an award of attorney's fees and costs incurred in bringing this action.
4. For other such relief as this Court deems just and equitable.

Dated this 29th day of July, 2022.

CHANDLER, FALCONER
MUNSON & CACCIOLA, LLP

By: 
Samuel C. Severin
AK Bar No. 0606035

CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP
911 W. 8th Avenue, Suite 302
Anchorage, Alaska 99501
(907) 272-8401 Fax (907) 274-3698

Complaint
Case No. 3AN-22-07395 CI

Devon Scarpella

From: Devon Scarpella
Sent: Monday, July 11, 2022 4:03 PM
To: barbara.jones@anchorageak.gov; dean.gates@anchorageak.gov
Cc: Sam Severin
Subject: Letter Regarding Mr. Biggs' Public Records Request
Attachments: Letter to Clerk's Office.pdf

Good afternoon,

Please see the attached letter regarding Mr. Biggs' records request.

Devon Scarpella
Office Manager
Chandler, Falconer, Munson & Cacciola, LLP
911 West 8th Ave., Suite 302
Anchorage, AK 99501
Phone: 907-272-8401

CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP

ATTORNEYS AT LAW

SUITE 302

911 WEST EIGHTH AVENUE

ANCHORAGE, ALASKA 99501

TELEPHONE: (907) 272-8401

FACSIMILE: (907) 274-3698

bcf@bcfaklaw.com

Barbara A. Jones, Municipal Clerk
Municipal Clerk's Office
City Hall
632 West 6th Avenue
Anchorage, AK 99501
Sent via electronic mail to: barbara.jones@anchorageak.gov

CC: Dean Gates
Assembly Counsel
PO Box 196650
Anchorage, AK 99519
Sent via electronic mail to: dean.gates@anchorageak.gov

On March 23, 2022, The Clerk's Office acknowledged receipt of a public records request from Mr. Biggs for "*Any communication, or email sent to or from an IP address under the jurisdiction of the Clerk to the email address: blue@thebluealaskan.com or domain www.thebluealaskan.com.*" It was assigned the number 2022-16.

Through subsequent correspondence on March 25, the date range was clarified to include only correspondence between April 1, 2020 and March 23, 2022. At the suggestion of Ms. Veneklasen, Mr. Biggs also agreed to exclude e-mails from temporary election workers from the request.

Correspondence with Mr. Gates, dating back to May 5 2022, suggests that he is aware of the request, and that he is tasked with reviewing the records. Loss of a staff member in his office understandably hindered his ability to handle a large volume of documents, but presumably that was temporary and does not relieve the Municipality of its legal obligations to produce the records.

AMC 3.90.010 states, "It is the policy of the municipality to provide the fullest and **most rapid public access** to municipal records and information so that the right of the people to remain informed is protected."

The Assembly has a demonstrated lack of interest in enforcing its own laws with regard to records requests from Mr. Biggs. Ideally, that can be considered water under the bridge, and we can go forward under the assumption the Assembly strives to follow its own laws. However, this request is nearing four months old and the only meaningful correspondence was from the Municipality to limit the scope of the request. AMC 3.90.060 requires that public records be

furnished **promptly** unless the information is privileged or confidential. If Mr. Gates is copied on correspondence with The Blue Alaskan, then the privilege is waived. That is straightforward. The very nature of the request suggests that privilege review is not a four-month process.

Please respond by July 20 with a date by which the Municipality will comply with the records request. I would welcome a call to create a mutually agreeable plan, such as producing the records in batches by year on a set schedule.

Very truly yours,

CHANDLER, FALCONER,
MUNSON & CACCIOLA, LLP

By: /s/Samuel C. Severin
Samuel C. Severin