

November 2, 2016

Ty Clevenger
21 Bennett Avenue #62
New York, New York 10033

Via email: tyclevenger@yahoo.com

Re: Representation of Hearne City Council members

Dear Mr. Clevenger:

As you are aware, we serve as the City Attorney for the City of Hearne. Between you and Councilmember Jackson, who is your client individually, we received **thirteen (13) separate emails and correspondence requesting various and related information since Monday night.** We have a number of concerns we must resolve before we will respond to the collective requests.

We are not the Public Information Officer for the City of Hearne, the City Manager is, as a matter of law. Emailed requests for public information are not “received” pursuant to the Act by virtue of an email to our offices or any other office unless an email is designated by the municipality. Other than those requests made in compliance with the Public Information Act, we have no duty to respond to your demands for information, nor respond within the unilateral time period you impose. Nevertheless, to be transparent, at the direction of the city (meaning a majority of the council members, as opposed to individual council members making demands outside of a city council meeting in numbers constituting a quorum) we try to work with the public to make public information available by assisting the city with Requests as they direct. Therefore, absent City Council direction, we are referring your requests to the City Manager as the city does not need to spend more legal fees than is necessary.

This onslaught of emails is particularly troubling as the request(s) for information appear to be identical, at least in part, to your own request for which your availability to pay the cost estimate of \$344.10 in order to receive the information has just expired due to your failure to respond. Such cost estimate having been given to you via correspondence from this firm on September 19, 2016 and which was due on October 3, 2016.

Another concern raised is your unauthorized communications with our client. Rule 4.02(a) of the Texas Disciplinary Rules of Professional Conduct states:

“In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of

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government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.”

We are the City Attorney, you know it, and it appears that you communicate with our client representatives without our consent, violating Rule 4.02(a) of the Disciplinary Rules. Two of my partners have sat on District Disciplinary Committees in Texas, so before taking this further, I please ask you to conform your practice to our rules and have no further communication regarding official city business with our client representatives. It further appears that individual council members have no legal authority to engage you to represent them in their official capacity without being retained by a majority vote of the city council, as the representation is not within their individual authority.

It further appears that you, and your “clients” have coordinated information regarding city business either for the purpose of avoiding the Texas Open Meetings Act or have attempted communications that include a quorum of the governing body, which likewise violates the Texas Open Meetings Act. Please refrain from misleading our client representatives, who you are speaking with you without our consent and without legal representation present into thinking that action of this type is legally compliant.

If you have any competent legal authority that disputes our preliminary reaction to your conduct and requests, please forward it to us for consideration. If found legitimate, we may modify our position in this matter.

I will be out of the office participating at an invitation only legal education event related to federal civil rights matters, not returning home until Saturday. Therefore, not having had a full opportunity to review the **thirteen (13) separate emails and correspondence requesting information received since Monday night** from you and Mr. Jackson, including your letter threatening legal action against my client if we don’t succumb to your immediate demands, we will not be responding until we can carefully review your requests, consider the facts and law, and make a responsible decision, which will likely include client input at a city council meeting. As such, we will not meet your requested deadline of November 4, 2016, nor do we have authority to do so.

In the future, perhaps a courtesy call between the lawyers can resolve these things instead of causing so much turmoil for this challenged community, before written demands, unilaterally set deadlines and threats of litigation ensue.

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Very truly yours,

Denton Navarro Rocha Bernal Hyde & Zech, P.C.
attorneys & counselors at law • rampagelaw.com



GEORGE E. HYDE
City Attorney
City of Hearne, Texas



SARAH M. GRIFFIN
Assistant City Attorney
City of Hearne, Texas

cc: John Naron
Interim City Manager
Via email