

STATE OF MICHIGAN
COURT OF APPEALS

ROSEMARY ADAMSKI,

Plaintiff-Appellant,

v

TOWNSHIP OF ADDISON,

Defendant-Appellee.

UNPUBLISHED

December 11, 2003

No. 241474

Oakland Circuit Court

LC No. 01-034991-AS

Before: Murray, P.J., and Gage and Kelly, JJ.

GAGE, J. (*concurring*).

I concur in the result but write separately to address two areas of concern. First, I agree with the majority that defendant's argument concerning MCL 15.233(3) is without merit – that argument being that under the statute, the Legislature intended only that a person seeking information have access to that information, not that a person be given copies of the information at the public body's expense. However, to the extent the majority opinion can be construed to mean that a public body cannot make reasonable rules concerning its furnishing a requesting person a reasonable opportunity for inspection and examination of its public records, I disagree. MCL 15.233(3) states that on request, the public body must furnish reasonable facilities for making memoranda or abstracts from its public records during usual business hours. However, it further reads that "[a] public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions." MCL 15.233(3). Thus, the statute clearly gives the public body the right to set reasonable rules concerning its furnishing a requesting person a reasonable opportunity for inspection and examination of its public records. Under certain circumstances, this may mean that the public body can set certain reasonable restrictions necessary to ensure the preservation of its documents.

Second, while I agree remand is necessary to allow the trial court to address plaintiff's request for costs and attorney fees, I stress that on remand, the trial court should pay particular attention to the fact that after the initial denial of plaintiff's FOIA request, defendant continuously offered plaintiff the opportunity to review and copy the requested tape but plaintiff failed to acknowledge such. Even after plaintiff was given a copy of the requested tape, it appears plaintiff failed to acknowledge whether the copy was satisfactory. Defendant asserts that plaintiff's FOIA request in this case is only one in a string of requests made by plaintiff with the intent to harass defendant. Under the circumstances, it appears plaintiff's pursuance of this matter may not be completely in good faith. Thus, I believe the trial court should be permitted to

address plaintiff's behavior and gamesmanship throughout this case in determining whether plaintiff is entitled to costs and attorney fees.

/s/ Hilda R. Gage