



DEPARTMENT OF LAW
MUNICIPAL BUILDING • 255 MAIN STREET • WHITE PLAINS, NEW YORK 10601

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May 14, 2009

DANIEL K SPENCER
DEPUTY CORPORATION COUNSEL

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
P. O. Box 3002
Southampton, New York 11969

Re: Administrative Appeal Dated April 29, 2009

Dear Ms. Sassower:

By correspondence dated April 29, 2009, received in this office the following day, an appeal is claimed to be taken from the April 13, 2009 letter authored by Carol L. Van Scoyoc, Chief Deputy Corporation Counsel. In that referenced correspondence, Ms. Van Scoyoc provided thirty-three (33) pages of requested documents. In your correspondence dated April 29, 2009, at page five (5) it is asserted that the City is to consider "the foregoing three paragraphs as my appeal."

After conducting a review of this purported appeal, the City hereby denies this alleged appeal.

In the paragraph immediately preceding that paragraph in which the appeal is disclosed, three statements of fact are recited that (i) the City is not in possession of any documents seeking comments of the job performance of Judge Hansbury; (ii) that a copy of an advertisement from the New York Law Journal announcing the City is seeking candidates for the position of City Court Judge was provided; (iii) that there are no publically available documents listing the names of candidates for that particular office. The subject paragraph ends with "Is this correct?"

Pursuant to the dictates of FOIL, agencies are required to provide access to documents and are not required to provide information by answering questions. See for example, Committee on Open Government Opinions AO-4712 and 4775.

Since your request seeks information in the form of a question, the appeal must be denied. However, to parse that appeal paragraph, specifically that aspect in which you seek a list of candidates who have applied for the position of City Court Judge, Ms. Van Scoyoc advised that no

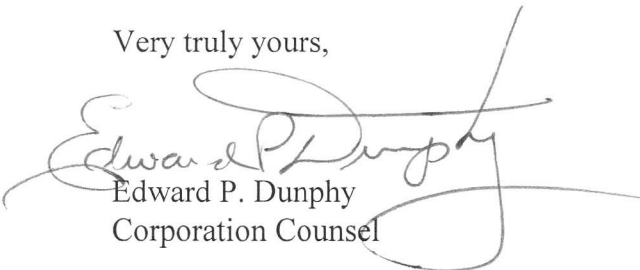
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list was available because Public Officers Law does not require an agency to disclose the name or home address for a person, or persons, seeking public employment. If that denial forms the subject of the appeal, it is likewise denied on the grounds cited by Ms. Van Scoyoc and the Opinion of the Committee on Open Government AO - 11112.

In the next preceding paragraph, it is asked if the City's Judicial Review Committee adopted any rules and procedures. Once again, this seeks to elicit information through the means of a question. As stated previously, an agency is not required to provide answers to questions.

Finally, it is difficult to determine where an appeal is being taken from the third foregoing paragraph. If we review that paragraph, it is requested that you be notified when the legislative body will consider the appointment of City Court Judge. This information was provided in letter dated May 1, 2009 - a copy of which is attached.

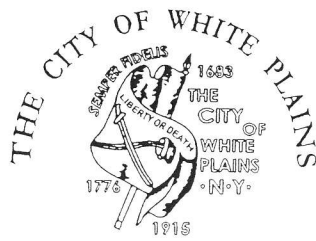
Very truly yours,



Edward P. Dunphy
Corporation Counsel

EPD/agf
Enc.

cc: Committee on Open Government w/enc.



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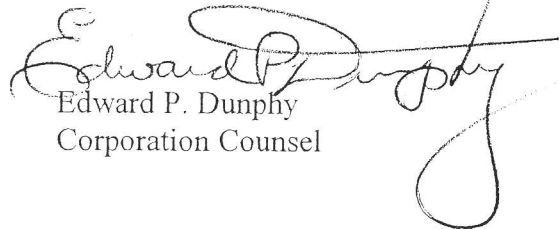
Elena Ruth Sassower, Director
Center for Judicial Accountability, inc.
Post Office Box 3002
Southampton, NY 11969

Re: Appointment of City of White Plain Judge J. Brian Hansbury

Dear Ms. Sassower:

Please be advised that the Common Council of the City of White Plains will address the matter above at the regular stated meeting of the Common Council on Monday, May 4, 2009.

Very truly yours,


Edward P. Dunphy
Corporation Counsel

EPD/agf