

Before the Presiding Judges of the Administrative Judicial Regions Per Curiam Rule 12 Decision

APPEAL NO.: 19-027

RESPONDENT: City of Rowlett Municipal Court

DATE: February 14, 2020

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge David L. Evans; Judge Kelly G. Moore; Judge Alfonso Charles; Judge Susan Brown

Petitioner requested from Respondent “all records relating to the grievance that I filed against you, the subsequent ‘investigation’ of that grievance and any other correspondence relating to me and my employment with the Rowlett Police Department.” In Rule 12 Decision No. 19-015, the special committee granted Petitioner access to a limited set of these records because they were “judicial records” without an applicable exception to disclosure. The special committee instructed Respondent to redact certain sensitive information from the records prior to release. Respondent, in accordance with the decision, notified Petitioner that it was releasing the responsive documents and presented Petitioner with a Rule 12.7 cost assessment of \$313.90. An itemized breakdown of the assessed costs showed 79 pages at \$0.10 per page, 17 hours and 20 minutes of labor at \$15.00 per hour, and a 20% overhead charge on labor. Shortly after receiving the assessment, Petitioner appealed the costs under Rule 12.7(c).

Rule 12.7(a) provides that, if a statute does not prescribe the cost for a copy of a judicial record, the actual cost for providing copies is not to exceed 125% of the amount prescribed by the Texas Administrative Code (TAC or Code) sections applicable to state agencies providing copies under the Public Information Act. These provisions are currently located in Chapter 70, Title 1 of the Code. Section 70.2 of Title 1 of the Code defines “actual costs” as the “sum of all direct costs plus a proportional share of overhead or indirect costs.” Section 70.3(b)(1) of Title 1 of the Code lists the charge for standard copies at \$.10 per page, and §70.3(d) sets labor costs incurred in processing the records request at \$15 an hour. Chapter 70 sets overhead recovery at 20% of labor costs associated with a particular request and provides a computational chart “to avoid complication in calculating such costs” and to “provide uniformity for charges made statewide.” 1 TAC §70.3(e). Because a statute does not prescribe the costs for these records, the cost provisions found in Chapter 70 control the costs here.

Petitioner specifically objects to the labor hours and labor overhead charges in the invoice. Petitioner complains about the 17 hours and 20 minutes spent by Respondent in producing the requested records (labor hours) and states that a similar request made to the City of Rowlett registered at \$277.35 for 1029 copies produced with only 9 hours of labor. Respondent, in its reply to Petitioner’s appeal, explained that the requests made to the City of Rowlett and to Respondent involved different records and that the invoice provided to Petitioner was based on actual time spent in locating, compiling, redacting, and copying the requested documents. Respondent also indicated it followed §70.3 in determining the cost assessment.

The time it takes to comply with a request depends upon the number of records responsive to the request, whether records need to be redacted, and how the records are maintained. *See* Rule 12 Decision No. 11-008. Respondent provided a detailed explanation regarding its records production effort and we do not find the labor hours spent in producing the records to be unreasonable. We also find that Respondent has complied with the Administrative Code provisions in assessing the costs associated with actual time spent in the records production, and a breakdown of the cost assessment shows how Respondent reached its invoice price: \$7.90 for copies (.1 x 79), \$260 for labor ((15 x 1040) / 60)¹, and \$52 for overhead (.2 x 260) equals \$313.90. Accordingly, we deny the appeal.

¹ 17 hours and 20 minutes ((60 x 17) +20) computes to 1040 minutes.