



MUNICIPALITY OF ANCHORAGE
Assembly Information Memorandum

No. AIM XX- 2023

Meeting Date: February 7, 2023

1 **From: ASSEMBLY CHAIR LAFRANCE**

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3 **Subject: THE ADMINISTRATION'S RESPONSE TO ASSEMBLY**
4 **LEADERSHIP'S REQUEST FOR THE RELEASE OF**
5 **DOCUMENTS.**
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8 The attached memorandum was provided at 4:07 p.m. on February 7, 2023 in
9 response to the Assembly Leadership's February 2, 2023 request to the HR
10 Director to release two documents pertaining to Mr. Gerace's employment with the
11 Municipality.
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14 Prepared by: Assembly Counsel's Office

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16 Respectfully submitted: Suzanne LaFrance, Assembly Chair
17 District 6, South Anchorage, Girdwood and
18 Turnagain Arm
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MUNICIPALITY OF ANCHORAGE



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Mayor Dave Bronson

February 7, 2023

VIA EMAIL ONLY

Assembly Leadership
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RE: 2/2/2023 Assembly Leadership Letter re Joe Gerace documents

Dear Assembly Leadership:

The Department of Human Resources will not be producing the documents as requested in Assembly Leadership's February 2, 2023 Letter.¹ The documents are confidential and protected by Anchorage Municipal Code and other privileges which the Municipality is not waiving. Releasing such documents would violate code and employees' constitutionally protected privacy.

Human Resources is a repository for all sorts of private and personal information. Anchorage Municipal Code 3.30.016 protects such information and only permits review by non-municipal entities in the rare instance where there is both "compelling public interest" and a court order to disclose such materials. Without such a court order, the Municipality is obligated and will continue to protect employees' fundamental right to privacy.

The *Daily News* case relied on by the Assembly does not dictate that executive-level employees lose all constitutional rights to privacy. Employees' privacy rights are to be balanced by the courts:

Ultimately, of course, it is for the courts to decide whether the explanation is reasonable and to weigh the benefits according to the agency from non-disclosure against the harm which may result to the public if such records are not made available for inspection.²

¹ Assembly Leadership also issued a subpoena for Niki Tshibaka for February 7, 2023. Mr. Tshibaka no longer works for the Municipality. The Municipality notes no additional authority in AMC 2.30.085 to override constitutional or other protections.

² *Municipality of Anchorage v. Anchorage Daily News*, 794 P.2d 584, 590–91 (Alaska 1990) (quoted in *City of Kenai*, 642 P.2d 1316, 1325 (Alaska 1982))(quoting *MacEwan v. Holm*, 359 P.2d 413, 421–22 (1961) (En Banc) (citations omitted, emphasis added).

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Human Resources is not releasing the requested documents. The documents are not public records available under AMC 3.90.

Sincerely,



Blair Christensen
Acting Municipal Attorney

Enclosed: Redaction Log

cc: Dave Bronson, Mayor
Raylene Griffith, Acting Director of Human Resources
Kent Kohlhase, Acting Municipal Manager
Adam Trombly, Chief of Staff
Dean Gates, Assembly Counsel

Redaction Log for 2/2/2023 Assembly Leadership request for documents

January 2023 memorandum and September 2022 memorandum both contain confidential and constitutionally protected personnel information and is exempt from public records requirements under AMC 3.30.016D. and 3.90.040B. Releasing such information would constitute an unwarranted invasion of privacy.

These memoranda may also be privileged under attorney-client work product and communications.

A handwritten signature in blue ink that reads "Blair M. Christensen". The signature is written in a cursive style with a long horizontal flourish at the end.

BLAIR CHRISTENSEN
Acting Municipal Attorney