



King County

**Records, Elections and
Licensing Services Division**

Department of Executive Services
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April 13, 2005

Michael Brannan
Attorney at Law
2033 Sixth Avenue, Suite 800
Seattle, Washington 98121

Re: Your April 7, 2005 Letter

Dear Mr. Brannan:

Thank you for your April 7, 2005 letter. The King County Records, Elections and Licensing Services Division ("Elections Division") is attempting to respond to your client's public disclosure request as expeditiously as reasonably possible. However, as indicated in its March 31, 2005 letter to your client, the Elections Division will not be able to complete its response to your client's request until, at the earliest, April 15, 2005.

The Elections Division has received 57 public disclosure requests with regard to the 2004 General Election. Some of these requests were received prior to the receipt of your client's request on February 22, 2005. Additionally, you are undoubtedly familiar with the election contest lawsuit that is proceeding in Chelan County. The Elections Division has received numerous requests for documents from the parties to the lawsuit. On the advice of the King County Prosecuting Attorney's Office, the Elections Division has given priority to subpoenas and requests from the parties that are related to the lawsuit. To date, tens of thousands of documents have been produced to the parties. The Elections Division is also preparing for Special Elections to be held on April 26 and May 17 with absentee verification slated to begin April 12, 2005.

The Washington Public Disclosure Act requires agencies to “promptly” make public records available for inspection or copying upon request. However, the act also directs agencies to respond to requests in such a way as to “prevent excessive interference with other essential functions of the agency.” RCW 42.17.290. The Elections Division is acting reasonably expeditiously in responding to your client’s request in light of the Elections Division’s other essential functions discussed above. The Elections Division will continue to devote time and resources to your client’s request in order to fully respond to the request as soon as reasonably possible. Your client will be notified as soon as requested documents are available for inspection.

On Tuesday, April 12, Mr. Sharkansky was provided the following documents to review:

- All documents presented to the canvassing board as well as access to a hard copy of the precinct breakdown of the 2004 General Election (binders). (As Mr. Sharkansky was told, this information was available for his review on March 31, 2005.)
- Information related to the 348 Provisional Ballots that were identified to have been incorrectly inserted into Accuvote machines by voters. (This information was also available for Mr. Sharkansky’s review as early as March 31, 2005.)
- All absentee ballot batch slips currently available (range from 1- 3218 w/ approximately 100 in-house batches mixed in.)
- Absentee ballot procedures
- Batch slips categorized as “Nicole batch slips”
- Enhancement and duplication batch slips
- Add-on batch slips
- Ballot opening instructions for the November General Election
- DIMS-NET Mail Ballot Operations Satellite Guide

Copies of additional batch slips, as well as the following information, are available today, April 13, 2005, for review as well as a disk of all PSI data files of information related to the PSI batches. Please note that the data for October 29, 2004 was either corrupt or blank, therefore we will provide the data from that disk when and if it becomes available. Any other dates not listed on the disk means ballots were not sorted on that day, which includes Sundays. Two copies of an accountability summary are provided on this disk – the original as well as an updated version.

In your letter you indicate that your client is seeking access to the names and voter identification numbers of “the approximately 93 voters whose absentee ballots were recently discovered and identified in the April 4 memo”. This information is not available for public inspection or copying at this time. The 94 absentee ballot envelopes were not opened by elections staff and were placed in sealed containers. On the advice of the Prosecuting Attorney’s Office, the sealed

Sharkansky Public Records Request
April 13, 2005

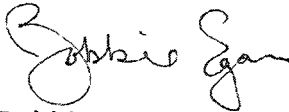
containers will not be opened until further direction from a court. It is expected that an order regarding these ballots will be issued in the course of the election contest litigation in Chelan County. No list was made of the corresponding voter names or identification numbers for the 94 absentee ballot envelopes before the envelopes were sealed. As a result, the Elections Division is unable to respond to this portion of your client's request. Please note that batch slip information on the uncounted 94 ballots is provided along with all batch slips made available for review or that will be made available this week.

In your letter you indicate that your client is seeking copies of both the absentee ballot outer envelope and provisional ballot envelope for the voters who were identified as having returned absentee ballots in the files on REALS' "Absentee ballot return statistics" but not credited in the voter registration database with having cast a provisional ballot.

Due to continuing requests for discovery information and the current work taking place for the April 26, 2005 Special Election, we estimate providing copies of the remaining batch slips and a replacement CD of the Canvassing Board minutes will be available by April 15, 2005.

Because Mr. Sharkansky did not file a public records request for item labeled "f" on your letter, we will consider that request a new request and process accordingly in the order of existing requests. We estimate that information will be available May 18, 2005.

Regards,



Bobbie Egan
Communications Specialist
King County REALS

CC: Stefan Sharkansky
Janine Joly, Sr. Prosecuting Attorney, Prosecuting Attorney's Office
Dean Logan, Director, King County Elections
Mary Stoa, Confidential Secretary REALS