

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 South Potomac Street Centennial, Colorado 80112	DATE FILED: July 26, 2022 11:07 AM CASE NUMBER: 2022CV30927
Plaintiff: THE SENTINEL COLORADO v. Defendant: KADEE RODRIQUEZ, in official capacity as Records Custodian for City of Aurora	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: 2022CV30927 Div. 202
ORDER CONCERNING RECORDING OF EXECUTIVE SESSION	

THIS MATTER comes before the Court an application of Plaintiff, The Sentinel Colorado (the “Sentinel”) for the release of minutes or recordings of a March 14, 2022 executive session of the Aurora City Council” (the “Council”), pursuant to the Colorado Open Records Act (“CORA”). The Court conducted an *in camera* review of the session and enters the following order concerning release of this recording.

INTRODUCTION

1. The Sentinel filed a complaint seeking the “release [of] the entirety of the March 14 [2022] Recording...” Cmpl ¶2. The Sentinel asserted that during the Executive Session, which was held for the stated purpose of obtaining “legal advice,” the Council took a “roll call vote ... to end the censure proceedings pending against Councilwoman Jurinsky...” Cmpl ¶s 5, 8 and 17.

2. In responding to the Sentinel’s complaint, the Council acknowledged that a “March 14, 2022 ... executive session was convened,” (Ans ¶17), but asserted that denial of the request for production of the minutes was proper because the meeting involved “privileged attorney/client communication.” Ans ¶24

3. On July 14, 2022 the Court issued an Order finding that an *in camera* review of the minutes was warranted. The Court found that the Sentinel had made a sufficient showing that the Executive Session violated CORA, based primarily on the Court's finding that the announcement of the Executive Session was insufficient under the applicable statute in that it did not make any attempt to "describe *at least* the 'subject matter' of what was to be discussed..." (Emphasis in original) *Guy v. Whitsitt*, 469 P3d 546, 553 (Colo. app. 2020); §24-6-402(1),(2).

4. The Court has now conducted the *in camera* review.

5. The Court finds that the subject of the Executive Session was to receive information from counsel on the process to be followed in addressing a censure complaint. The Council did not "vote" on ending the censure action as alleged in the Sentinel's complaint, however, there was a roll-call taken on what direction to give to legal counsel on how to proceed. While this action might very well fall into the category of legal advice, the Court is still faced with the fact that the announcement of the Executive Session does not appear to comply with the requirements of the applicable statutes.

The members of a local public body subject to this part 4, upon the **announcement** by the local public body to the public **of the topic for discussion** in the executive session, ... and **identification of the particular matter to be discussed in as much detail as possible** without compromising the purpose for which the executive session is authorized, ... may hold an executive session ...

(Emphasis added) §24-6-402(4), C.R.S.

For this reason, the Court is inclined to release the recording of the subject Executive Session. The Court is, however, also mindful of the special status attorney-client

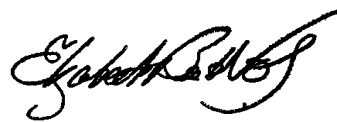
communications hold and therefore will grant the Council an opportunity to consider the Court's ruling prior to release, in order to take any action they deem appropriate.

CONCLUSION

Based on the foregoing, the Court finds that the recording of the March 14, 2022 Executive Session of the Aurora City Council shall be released to the Sentinel based on a violation of the Open Records Act. The Court will stay this ruling for fourteen (14) days. If no action is taken to preclude the release, the Court's order shall thereafter become effective.

SO ORDERED THIS July 26, 2022.

BY THE COURT:



Elizabeth Beebe Volz
District Court Judge