

STATE OF MICHIGAN
CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
OAKLAND COUNTY

RICHARD BISIO,

Plaintiff,

v

Case No. 2015-147354-CZ

THE CITY OF THE
VILLAGE OF CLARKSTON, et al.,

Hon. Leo Bowman

Defendants.

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CONSENT JUDGMENT

At a session of said Court, held on: MAR 14 2016

Present: Hon. LEO BOWMAN

On stipulation of the parties,

IT IS ORDERED AND ADJUDGED:

1. Defendant City Council's decision to convene a closed session on March 9, 2015 was in violation of MCL 15.263(1) and 15.268(h) because the stated purpose for convening a

closed meeting, to discuss an attorney-client communication, was not accompanied by a written memorandum as required by *Booth Newspapers v Wyoming*, 168 Mich App 459, 469 (1988).

2. The documents presented to the City Council that formed the basis of the closed session were and are public records under MCL 15.232(e). In particular, the following documents were and are public records:

(a) A memorandum from City Attorney Thomas J. Ryan addressed to City Manager Carol Eberhardt and Mayor Joseph Luginski dated March 9, 2015 regarding "148 N. Main Street."

(b) A letter dated March 9, 2015 from Hubble, Roth & Clark, Inc. to City Manager Carol Eberhardt regarding "Proposed Muffler Shop Redevelopment - Proposed Environmental and Storm Water Detention System; HRC Job No. 20140245; 148 North Main St., Clarkston, MI."

3. Count III of Plaintiff's First Amended Complaint dated July 16, 2015, is hereby dismissed. The dismissal of this claim shall not bar Susan Bisio from pursuing claims for alleged violations of the Freedom of Information Act.

4. The remaining claims of Plaintiff's First Amended Complaint dated July 16, 2015 are dismissed with prejudice. This dismissal does not constitute a finding of fact or conclusion of law as to the legal theories raised by Plaintiff in those claims, and does not preclude Plaintiff from raising similar legal arguments under other factual circumstances in the future.

5. The entry of this Judgment shall have no effect on the claims in *Susan Bisio v City of the Village of Clarkston*, case no. 2015-150462-CZ, pending in this court.

6. Defendant City of the Village of Clarkston shall pay plaintiff Richard Bisio \$2,500.00 in full satisfaction of his claims for taxable costs and attorney fees.

7. The November 5, 2015 Order regarding Defendants' Motion for Sanctions Against Plaintiff Richard Bisio is vacated and Defendants' Motion for Sanctions is denied.

This Order constitutes a final judgment, resolves the last pending claim, and closes the case.

<u>MAR 14 2016</u>	<u>/s/Leo Bowman</u>	
DATE	Hon. Leo Bowman Circuit Judge	DB

Stipulation

We stipulate to entry of this Consent Judgment.

/S/ Brian D. Wassom
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