

[Annotated at end of document]

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

LARRY GALLAWA,
Plaintiff,

vs.

THE HUMANE SOCIETY SOCIETY FOR
TACOMA & PIERCE COUNTY, a
Washington nonprofit corporation (UBI 278-
004-980); PIERCE COUNTY, a Washington
municipal corporation; and DOES 1-10;
Defendants.

The Honorable Helen Halpert

Case No.: 05-2-24207-8 SEA

**AMENDED COMPLAINT FOR
VIOLATION OF PUBLIC DISCLOSURE
ACT**

JURISDICTION, PARTIES, AND VENUE

1. This court has subject-matter jurisdiction over this action under RCW 2.08.010.
2. All of the events complained of herein occurred in Pierce County, Washington.
3. Plaintiff LARRY GALLAWA (hereinafter "Gallawa") is an individual residing in the City of Redmond, King County, State of Washington.
4. Defendant THE TACOMA-PIERCE COUNTY HUMANE SOCIETY ("TPCHS") is, and at all times herein was, a Washington non-profit corporation duly incorporated in the State of Washington with its principal place of business in Tacoma, Pierce County, Washington. At the time of the events complained of, TPCHS contracted with Pierce County to provide core governmental services, viz., animal care and control.

AMENDED COMPLAINT FOR
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- 1 5. Defendant PIERCE COUNTY (“County”) is a municipal corporation and organized
2 under the laws of the State of Washington. At the time of the events complained of,
3 County fully delegated all core animal control-related governmental tasks to TPCHS.
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5 6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate or
6 otherwise, of Defendants Does 1-10, inclusive, and therefore sues said Defendants by
7 said fictitious names. Plaintiff is informed and believes, and based on that information
8 and belief alleges, that each of the Defendants sued herein under a fictitious name is
9 responsible in some manner for the events and occurrences referred to herein. When the
10 true names, capacities and involvement of said Defendants are ascertained, Plaintiff will
11 seek leave to amend the complaint accordingly.
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13 7. This matter is properly venued in King County, pursuant to RCW 36.01.050.

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GENERAL ALLEGATIONS

1. Beginning in or about June 2003 and for several months thereafter, Gallawa repeatedly submitted several public disclosure requests to TPCHS concerning allegations of animal cruelty and neglect involving Scudder Aviary, Cripple Creek Aviary, and Binning Aviary.
2. TPCHS, through its officers and agents, expressly denied Gallawa’s requests, claiming that it was not subject to the Public Disclosure Act.
3. In late 2003, after receiving blanket denials from TPCHS, Gallawa repeatedly submitted several public disclosure requests to County concerning the same or similar records requested of TPCHS. In some of these communications, Gallawa informed County of TPCHS’s position.
4. County, through its contract with TPCHS, had access to these requested records. Indeed, in one instance, an employee for County requested one of these requested records from TPCHS, which she then forwarded to Gallawa.
5. Aside from this single record, the County refused Gallawa’s requests to obtain the records from TPCHS. Accordingly, it failed to provide the fullest assistance required under the Public Disclosure Act.
6. TPCHS, at the time of events complained of, was charged with faithfully enforcing all ordinances, regulations, and laws relative to licensing, impounding, and care of animals, dangerous animals or animals creating nuisances, and animals diseased or suspected of being diseased in County. TPCHS also took an active role in investigating animal cruelty and neglect. The County delegated its core animal control functions virtually *in*

1 *toto* to TPCHS, in which it vested final decision-making authority for its governmental
2 ends and purposes.

- 3 7. The records requested by Gallawa of TPCHS and County were employed for, applied to,
4 or made instrumental to a governmental end or purpose.

5 FIRST CLAIM FOR RELIEF – RESPONDEAT SUPERIOR

- 6 1. At all times relevant to this matter, Does 1-10 were employees and supervisors acting in
7 the course and scope of their employment relationship with defendants.
- 8 2. Defendants are vicariously liable for the alleged statutory violations of their employees
9 and supervisors on the basis of respondeat superior.

10 SECOND CLAIM FOR RELIEF – PUBLIC DISCLOSURE ACT VIOLATION
11 (Ch. 42.17 RCW)

- 12 3. Gallawa is entitled to an award of reasonable attorney’s fees and costs for bringing this
13 action, plus sanctions of up to one hundred (\$100) dollars per day for each day TPCHS
14 has denied and continues to unreasonably deny access to the requested documents under
15 RCW 42.17.340.
- 16 4. Gallawa is entitled to an award of reasonable attorney’s fees and costs for bringing this
17 action, plus sanctions of up to one hundred (\$100) dollars per day for each day County
18 has denied and continues to unreasonably deny access to the requested documents under
19 RCW 42.17.340.
- 20 5. This suit is filed within the five-year statute of limitations, under RCW 42.17.410.
- 21 6. Defendants violated the Public Disclosure Act by failing to provide Gallawa the fullest
22 assistance in promptly responding to his several requests.
- 23 7. Defendants acted in bad faith.

24 THIRD CLAIM FOR RELIEF –DECLARATORY RELIEF (Ch. 7.24 RCW)

- 25 8. Gallawa is entitled to a declaratory judgment that TPCHS and all similarly-situated
entities contracting with municipalities to provide core animal control services are
subject to the Public Disclosure Act.

FOURTH CLAIM FOR RELIEF –PERMANENT INJUNCTIVE RELIEF

9. This court has the power under RCW 7.40 to enjoin TPCHS and similarly-situated

1 entities from taking illegal actions in violation of Gallawa's rights and those similarly
2 situated.

3 10. Gallawa is entitled to permanent injunctive relief, in the form of an Order requiring
4 TPCHS and similarly-situated entities to comply with all properly propounded public
5 disclosure requests, pursuant to Ch. 42.17 RCW.

6 PRAYER

7 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 8 1. For a finding that Defendants are vicariously liable for the acts of their employee(s) and
9 supervisor(s) Doe(s) 1-10.
10 2. For reasonable attorney's fees as allowed by law, RCW 42.17.340, or, in the alternative,
11 statutory attorney's fees in the amount of \$200;
12 3. Declaratory and injunctive relief as stated above;
13 4. For postjudgment interest at 12% per annum or the highest rate permitted by law,
14 pursuant to RCW 4.56.110;
15 5. For penalties of \$100 a day against each Defendant as provided by RCW 42.17.340; and
16 6. For such other and further relief as the Court may deem just and proper.

17 Dated this September 9, 2005.

18 LAW OFFICE OF ADAM P. KARP

19 /s/ Adam P. Karp

20 _____
21 Adam P. Karp, WSBA No. 28622
22 Attorney for Plaintiff

23
24 AMENDED COMPLAINT FOR
25 VIOLATION OF PUBLIC DISCLOSURE
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[Sadly, Mr. Gallawa had to [sue](#) the Humane Society to get records which should have been made readily available to him under the Freedom of Information Act. The picture with the Pierce County Humane Society is further besmirched by allegations that Martha Scudder was informed by Wally Hall in advance of any upcoming inspections by the PCHS :

"Her [Martha's] comment was that she just had Wally Hall in the palm of her hand." [Deposition of K. Scudder; Pt. 1]

—Editors.]