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March 25, 2009

Jack Benson, Jr.
622 Georgia Ave., Suite 105
Chattanooga, TN 37402

VIA FACSIMILE
423-634-7787


Re: *Commissioner Curtis Adams v. City of East Ridge, Tennessee*

Dear Jack,

Pursuant to Rule 68 of the Tennessee Rules of Civil Procedure, please find enclosed an offer of judgment. Please let me know if it is acceptable. Upon notification of its acceptance, I will seek to obtain the East Ridge City Council's approval as soon as practicable.

If this is not acceptable, please be advised that I reserve the right to seek a dismissal of the Commissioner's petition because of his lack of standing to sue on behalf of citizens rather than just himself. Moreover, there is a question of whether this is even an action within the scope of his authority as a Commissioner of Hamilton County. Also, the petition should be dismissed because there is no valid written request to obtain the documents. Further, the service of the summons and petition upon the City of East Ridge is defective.

Sincerely,


John P. Konvalinka

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

COMMISSIONER CURTIS ADAMS)
individually and on behalf of THE)
CITIZENS OF HAMILTON COUNTY)
and EAST RIDGE, TENNESSEE,)
)
Petitioner,)
)
v.)
)
CITY OF EAST RIDGE, TENNESSEE)
)
Respondent.)

NO. _____

PART II

ORDER

NOW COMES the City of East Ridge and hereby appears specially in response to
—a Petition filed on or about March 16, 2009 and states as follows:

WHEREAS, notwithstanding that service by Commissioner Adams upon the City
of East Ridge is deficient due to Commissioner Adams' actions and/or inaction; and

WHEREAS, notwithstanding that there is no written request made by
Commissioner Adams in accordance with T.C.A. § 10-7-503 that is effective or
enforceable; and

WHEREAS, notwithstanding that Commissioner Adams has no standing as a
Commissioner of Hamilton County, Tennessee to file a petition on behalf of the citizens
for public records; and

WHEREAS, the City of East Ridge has been and continues to be willing to
produce documents that are not privileged; and

WHEREAS, the City of East Ridge has been concerned that there may be a claim of waiver of attorney-client privilege by the production of documents that may be privileged; and

WHEREAS, the City of East Ridge determined that it needed to obtain a judicial determination as to which documents are privileged to protect its interests; accordingly, it is hereby

ORDERED, ADJUDGED AND DECREED, that

1. Attached to this Order as Exhibit A are documents which have been determined to be non-privileged.
2. Documents which may be privileged will be submitted *in camera* for further judicial determination upon motion of Commissioner Adams.
3. Any and all costs relative to the City of East Ridge's production shall be paid by Commissioner Adams.

ENTERED this _____ day of _____, 2009.

HOWELL N. PEOPLES

AGREED TO BY:

GRANT, KONVALINKA & HARRISON, P.C.

By:

John P. Konvalinka (BPR#001780)
Attorneys for Respondent
633 Chestnut Street, Suite 900
Chattanooga, Tennessee 37450-0900
423/756-8400

JACK BENSON, JR.

By: _____

Jack Benson, Jr. (BPR# 012379)

Attorney for Petitioner

622 Georgia Ave., Suite 105

Chattanooga, TN 37402

423/634-7785

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing pleading was sent first-class mail, postage prepaid, via facsimile or hand-delivered to the following individual:

Jack Benson, Jr.
622 Georgia Ave., Suite 105
Chattanooga, TN 37402
Attorney for Petitioner

This _____ day of _____, 2009
