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Russell Muñiz, Town Clerk  
Town of Southwest Ranches  
13400 Griffin Road  
Southwest Ranches, FL 33330

Dear Mr. Muñiz,

We are writing on behalf of Ms. Ryann Greenberg, who has contacted our office regarding a troubling experience requesting public records from the Town of Southwest Ranches (Town). On October 10, 2014, you complied with Ms. Greenberg's public records request and provided her with a copy of the August 2014 invoice for legal services rendered to the Town by Mr. Arnstein Lehr, Esq. The copy of the invoice she received, however, contained inappropriate redactions. Specifically, the monetary amounts and descriptions related to the Town's lobbying expenses were redacted from the record. In addition, your October 27, 2014 response to her request for the July 2014 invoice had the same redactions. It is our understanding you included expenses for a lobbying contract in the pages of the invoice dealing with the Town's litigation with the City of Pembroke Pines. In doing so, you attempted to claim the lobbying expense exempt from disclosure pursuant to the Attorney Work Product exemption of the Public Records Law. See Section 119.071(d), Florida Statutes. It is our position that your reliance on the work product exemption is ill-founded and that your non-disclosure of the redacted information violates Florida's Public Records Law.

According to section 119.071(d), F.S., only those records reflecting *mental impressions, conclusions, litigation strategies or legal theories* prepared by a government attorney or at the attorney's express direction in response to ongoing or imminent litigation or adversarial administrative proceedings are exempt from disclosure. (emphasis added). Because the statute specifies the records covered by the exemption, only that information so specified may be considered exempt and thus subject to redaction. AGO 00-07. Furthermore, the Attorney General has opined that if public requests for "bills and invoices" "contain some exempt work product," i.e., mental impressions, conclusions, litigation strategies, or legal theories, the exempt material may be deleted and the remainder disclosed. AGO 85-89. The Attorney General emphasized, however, that information such as "the hours worked or the hourly wage clearly would not fall within the scope of the exemption." *Id.*

Regarding Ms. Greenberg's request, you redacted from the July and August invoices both the monetary amount and description of a lobbying expense. But neither the amount in reimbursable costs relating to lobbying expenses nor the description identifying such expenses falls with the attorney work product exemption under s. 119.071(d). First, the Attorney General has made clear that the monetary amount of attorney wages or of services rendered or received do not constitute a work product. See AGO 85-89. Furthermore, it is nearly impossible to conceive of reimbursable expenses, lobbying or otherwise, as a "litigation strategy," "mental impression," or "legal theory" of the Attorney.

The purpose of Ch. 119, F.S. is to "open public records to allow Florida's citizens to discover the actions of their government." *Christy v. Palm Beach County Sheriff's Office*, 698 So. 2d 1365, 1366 (Fla. 4th DCA 1997). To that end, Florida courts have consistently held that the Public Records Act is to be liberally construed in favor of open government, and exemptions from disclosure are to be narrowly construed so they are *limited to their stated purpose*. See *National Collegiate Athletic Association v. Associated Press*, 18 So. 3d 1201 (Fla. 1st DCA 2009) (emphasis added); *Krischer v. D'Amato*, 674 So. 2d 909, 911 (Fla. 4th DCA 1996); *Seminole County v. Wood*, 512 So. 2d 1000, 1002 (Fla. 5th DCA 1987). Courts have routinely refused to "imply" an exemption where statutory language does not explicitly authorize it. *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373 (Fla. 1999). More importantly, the courts maintain that doubt as to the applicability of an exemption should be resolved in favor of disclosure rather than secrecy. *Tribune Company v. Public Records*, 493 So. 2d 480, 483 (Fla. 2d DCA 1986).

It is evident from the information provided that you have misconstrued the attorney work product exemption, and have consequently unlawfully denied access to non-exempt, public record information. We urge you to rectify this error by providing Ms. Greenberg the proper, unredacted record pursuant to her original October requests. In addition, we strongly suggest Southwest Ranches observe the narrow parameters of the Attorney Work Product exemption when fulfilling all future public records requests.

Sincerely,



Barbara A. Petersen, President

Cc: Keith Poliakoff, Town Attorney  
Andy Berns, Town Administrator  
Martin D. Sherwood, Town Financial Administrator  
Ryann Greenberg, Resident