

**STATE OF NEW MEXICO  
LOS ALAMOS COUNTY  
FIRST JUDICIAL DISTRICT**

**PATRICK BRENNER, and  
LISA BRENNER**

**Plaintiffs,**

**v.**

Case assigned to Singleton, Sarah  
No. D-132-CV-2017-00062

**LOS ALAMOS COUNTY COUNCIL,  
And BARB RICCI, Designated Custodian  
Of Public Records for Los Alamos County,**

**Defendants.**

**COMPLAINT FOR DECLARATORY JUDGMENT  
ORDERING PRODUCTION OF CERTAIN RECORDS AND INFORMATION**

COMES NOW, Plaintiffs Patrick Brenner and Lisa Brenner, by and through their counsel of record Western Agriculture, Resource and Business Advocates, LLP (A. Blair Dunn, Esq.), and state the following:

**GENERAL ALLEGATIONS**

1. Plaintiff Patrick Brenner is a resident of Sandoval County, New Mexico.
2. Plaintiff Lisa Brenner is a resident of Los Alamos County, New Mexico.
3. Defendant Los Alamos County Council is a governmental agency of Los Alamos County, New Mexico.
4. Defendant Barb Ricci is the Designated Custodian of Public Records for Los Alamos County, New Mexico.

5. This action is brought by Plaintiffs against the Defendants to enforce the provisions of the New Mexico Inspection of Public Records Act, NMSA 1978 § 14-2-1 (“IPRA”).

6. The IPRA provides that, with only certain, specified limitations, “Every person has a right to inspect public records of the state.” *Id.*

7. Via e-mail dated May 15, 2017, (Exhibit A – Email Request) Plaintiff, requested the opportunity to inspect, examine, or be provided copies of emails from every Councilor sent or received on May 15, 2017.

8. In an email dated May 19, 2017, Records Custodian Barb Ricci indicated that she would forward any additional responsive records received on or before May 31, 2017. (Exhibit B – Email from Barb Ricci).

9. In an email dated May 25, 2017, Records Custodian Barb Ricci indicates that the case has been officially closed. (Ex. B).

10. The 15-day deadline to respond was May 31, 2017.

11. In a separate Records request, Plaintiff Patrick Brenner received documents indicating that at least one Los Alamos County Council Member was communicating with the Los Alamos Chief of Police regarding county business via his personal email address. (Exhibit C – Email to Chief Sgambellone)

12. Defendants Los Alamos County Council members, through Barb Ricci the Designated Custodian of Public Records, have provided some of the emails requested, however, email sent from private email addresses while performing

public business have not been provided as well as responses to emails, and the request is therefore improperly denied.

13. To date, Defendants have not fully responded by failing to provide public documents that are contained on private email accounts.

## COUNT I

### VIOLATION OF THE NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT

14. Plaintiffs incorporate by reference the claims, facts, and allegations set forth in the above paragraphs.

15. Pursuant to NMSA 1978 § 14-2-11 Defendants have violated the New Mexico Inspection of Public Records Act by failing to respond or provide for inspection the requested public records.

16. Because Defendants have violated the IPRA by failing to produce to Plaintiffs the public records requested by Plaintiffs without justification under the law, Plaintiffs are entitled to an injunction ordering the Defendants to produce all relevant documents in the Defendants' possession.

17. Pursuant to NMSA 1978 § 14-2-11 Plaintiffs are entitled to statutory damages, attorney's fees and costs for the failure of the Defendants to follow IPRA.

WHEREFORE, Plaintiffs respectfully request that this Court exercise its jurisdiction and enter, pursuant to this Court's original jurisdiction, and the New Mexico Inspection of Public Records Act:

- A. A declaratory judgment adjudicating that the failure of the Defendants to timely respond or provide the public records requested by Plaintiffs are in

- violation of the New Mexico Inspection of Public Records Act, or if necessary, a writ of mandamus requiring the Defendants to produce the requested records;
- B. Judgment in favor of Plaintiffs on Defendants' violation of the Inspection of Public Records Act;
  - C. An injunction to enforce the provisions of the New Mexico Inspection of Public Records Act;
  - D. An Order awarding Plaintiffs statutory damages for violation of the Inspection of Public Records Act;
  - E. An Order awarding Plaintiffs their costs and reasonable attorneys' fees as provided by law;
  - F. Such other and further relief as the Court deems just.

Respectfully submitted;

WESTERN AGRICULTURE, RESOURCE  
AND BUSINESS ADVOCATES, LLP

/s/ A. Blair Dunn

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