



CITIZENS
for
Limited Taxation
The Commonwealth Activist Network

Post Office Box 1147 □ Marblehead, Massachusetts 01945 □ staff@cltg.org □ www.cltg.org

Barbara Anderson (508) 384-0100 □ Chip Ford (781) 631-6842 □ Chip Faulkner (508) 384-0100

His Excellency Deval Patrick
Office of the Governor
State House, Room 360
Boston, Massachusetts 02133

January 30, 2007

Dear Governor Patrick:

This is a request made under the Freedom of Information Act (5 U.S.C. 552) and under The Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10).

I formally request a copy of all reports submitted to Governor Deval Patrick relating to budget savings within their departments. Your request for this information was publicly announced in a statement released January 18, 2007 with the heading "GOVERNOR PATRICK, SECRETARY KIRWAN DIRECT DEPARTMENTS TO IDENTIFY SAVINGS."

In order to help you determine my status for the purpose of assessing fees, you should know that I am an individual seeking information for a not for profit organization and not for a commercial use.

Pursuant to the guiding statutes, please respond to this request within 10 days of receipt. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information.

Thank you for your prompt attention to this matter.

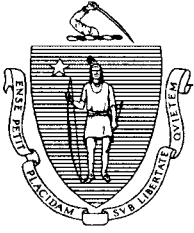
Sincerely,

Barbara Anderson

Barbara Anderson
Executive Director

CC: Benjamin Clements, Chief Legal Counsel

Every Tax is a Pay Cut . . . A Tax Cut is a Pay Raise



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT

STATE HOUSE • ROOM 271

BOSTON, MASSACHUSETTS 02133

TEL: (617) 725-4030 • FAX: (617) 727-8290

OFFICE OF THE GOVERNOR'S LEGAL COUNSEL

DEVAL L. PATRICK
GOVERNOR

February 5, 2007

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SHARON D. JONES
EXECUTIVE ASSISTANT

Ms. Barbara Anderson
Citizens for Limited Taxation
P.O. Box 1147
Marblehead, MA 01945

Re: Public Records Request

Dear Ms. Anderson:

I write in response to your January 31, 2007 public records request to the Office of the Governor seeking copies of certain budget savings memoranda that the cabinet secretaries submitted on or about January 26, 2007.

As a threshold matter, please be advised that in Lambert v. Executive Director of the Judicial Nominating Council, 425 Mass. 407 (1997), the Supreme Judicial Court held that the Office of the Governor is not one of the instrumentalities enumerated in Mass. Gen. L. ch. 4, § 7, cl. Twenty-sixth, whose records are subject to disclosure under the public records law.

Notwithstanding Lambert, it is the practice of the Office voluntarily to consider and to respond to public records requests on a case-by-case basis. In that regard, we have reviewed your request and determined that it seeks memoranda relating to policy deliberations that are exempt from production under exemption (d) of the public records law. G.L. c. 4, § 7 Twenty-sixth (d); see also Bureau of Nat'l Affairs, Inc. v. United States Dept. of Justice, 742 F.2d 1484, 1496-98 (D.C. Cir. 1984).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Pineault", written over a light blue grid background.

Michael J. Pineault



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Mr. Alan N. Cote
Supervisor of Public Records
One Ashburton Place, 1719
Boston MA 02108

February 13, 2007

Dear Mr. Cote,

On January 31, 2007, Citizens for Limited Taxation asked Governor Deval Patrick to share the suggestions for budget cuts that he had requested from his department heads.

On February 5, 2007, Deputy Chief Counsel Michael Pineault sent us a letter refusing the request, citing Lambert v. Executive Director of the Judicial Nominating Committee. This Kentucky case held that “neither the Legislature nor the Judiciary are expressly included in the Public Records Law.”

We are happy to exempt from our request any department head in the Patrick Administration who falls into the category of “Legislature” or “Judiciary,” which we have always assumed were different branches of government from the Governor’s “Executive.”

We are also happy to save the commonwealth the trouble and expense of copying the documents to us. We simply want them given to the State House News Service, which first requested them. CLT subscribes to the SHNS and can read the documents it publishes.

The governor’s office also insists it need not respond because we seek memoranda relating to policy deliberations that are exempt from production, according to Bureau of Nat’l Affairs v. United States Dept. of Justice.

While we find it odd that Governor Patrick would draw on a case that keeps environmental deliberations relating to President George Bush’s energy policy from the public, we would not argue this point if the governor had not made such a point of a) publicizing his request for policy recommendations and b) having an open administration with participation from ordinary citizens like us.

Every Tax is a Pay Cut . . . A Tax Cut is a Pay Raise

According to the Secretary of State's "Guide to the Massachusetts Public Records Law," the exemption cited by the governor's office, exemption (d), applies to "inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this sub-clause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based."

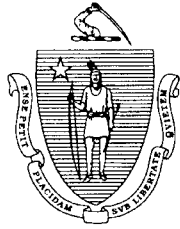
It is up to you of course to determine how "reasonably completed" the reports were that departments heads submitted to the Governor concerning his request for suggested budget savings. We would argue that ordinary citizens cannot participate in budget decisions if we do not have information about potential savings from department heads, who are, after all, our employees – as are the governor and his staff.

We hope you can provide the suggestions for savings to the Massachusetts media so that together, we can make government more open and the commonwealth a better place. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Anderson".

Barbara Anderson,
Executive Director
Citizens for Limited Taxation



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Alan N. Cote
Supervisor of Records

February 15, 2007
SPR07/029

Ms. Barbara Anderson
Citizens for Limited Taxation
P. O. Box 1147
Marblehead, MA 01945

Re: budget saving reports from department heads

Dear Ms. Anderson:

I have received your letter appealing the response of the Executive Department to your request for records. When I have completed my review of this matter, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Cote".

Alan N. Cote
Supervisor of Records

ANC/js

cc: Mr. Michael J. Pineault, Esq.