

Subject: Fw: katrina's issue for governor
From: kit fay (kat@laurenscountycitizenswatch.com)
To: kat@laurenscountycitizenswatch.com;
Date: Wednesday, January 30, 2013 9:16 AM

----- Forwarded Message -----

From: kit fay <kat@laurenscountycitizenswatch.com>
To: "bmclain@entercom.com" <bmclain@entercom.com>
Sent: Tuesday, January 29, 2013 5:27 PM
Subject: katrina's issue for governor

Bob,

Here is the issue. I would like the Governor to tell me this:

1) How is the Commission for Ethics Reform, a staff type endeavor, going to do anything about changing the state's obstructive secretive operations culture fostered in the trenches, like the obstructive, and frankly, disdainful disrespectfl of our laws, like what the SC Park Recreation Tourism lawyer does below (full history of correspondence on website).

2) Please explain where this lawyer has authority to decide the publicly subsidized revenue of a company (HTYRA), whose Treasurer (John Martin) is under investigation by the SC Secretary of State (because I reported him after I investigated him) is being used for proper public purpose. Martin is being investigated for his refusal to disclose the financial records and business records required by FOIA and SC Public Charities Act. Did she decide these laws don't matter? The answer is, she doesn't have the authority but our state operations culture promotes a paradigm that lawyers can inflate their legal authority to block citizen authority over state agencies.

If PRT can't handle the little things, we certainly can't trust it to do the big things.

Thanks Bob!!

----- Forwarded Message -----

From: kit fay <kat@laurenscountycitizenswatch.com>
To: BJ Willoughby <bjwilloughby@scprt.com>
Cc: "jasmith@oepp.sc.gov" <jasmith@oepp.sc.gov>; Amy Duffy <aduffy@scprt.com>; Alesha Cushman <acushman@scprt.com>
Sent: Monday, January 28, 2013 4:14 PM
Subject: Re: Hickory Tavern Park

Dear Ms. Willoughby:

Thank you for responding.

I understand PRT's reluctance to review the documentation I provided. Nonetheless, as you reasonably should know from a review of the documents I provided, HTYRA refused to disclose financial and business records under the CEO's assertion FOIA doesn't apply. HTYRA company operations require meeting minutes, votes and records of company decisions. No records - no company activity.

As a legal expert, you understand the duty of public charities to disclose records is codified in state laws like FOIA and the State Charities Act, to protect public interest in public monies. The burden to prove public purpose is on HTYRA. The first step to meet this burden is disclosure of public records. HTYRA failed to meet that burden. Without public records, public use can't be proven. Undisclosed means private. You have the requisite expertise to understand HTYRA's repeated pattern of refusal reasonably implicates personal use of public monies. Which is why the Secretary of State is investigating.

My understanding of public purpose means, in this instance, the public must be primary beneficiary of PRT funding. Public benefit can't be tangential or secondary to private gain. Public access to the park is a secondary benefit to the substantive private gain HTYRA is realizing - which it could not realize without PRT's help - to operate the park, privately, and keep resulting publicly subsidized revenue for private purpose.

I am shocked at your assertion that HTYRA's concealed financial records meets public use. Protecting HTYRA's failure to comply by proclaiming 'public use' to the hidden financial records is repugnant to the laws HTYRA ignored, a symptom of the state's corrupt culture, and a casual violation of public trust. PRT doesn't have authority to assign public purpose to the financial records companies refuse to disclose. Legalese can't hide the facts that there are no 'public' records showing where the money is going and PRT let the money be privately used for years. Really, you can't expect the credibility of the agency, and the Governor's management over the agency, to be unaffected.

Trying to put an evidentiary burden on me to 'prove' misuse instead of respecting the laws under which HTYRA failed to meet the first step of it's burden, is disingenuous and an obvious attempt to get out of PRT's fiscal oversight responsibility.

Since PRT can't prove HTYRA is doing with the revenue, PRT can't prove the revenue isn't being used to discriminate. What evidence does PRT have that shows the revenue is being used to maintain the facility and on public recreation? What evidence did PRT use to conclude Mr. Martin doesn't operate the park in a discriminatory fashion, such as charging different fees to different people? How does PRT know Mr. Martin isn't using the money to buy personal items for friends and family?

PRT can't know any of these things without evidence. Implying PRT knows these things is bad faith. Actually believing HTYRA's use of the revenue meets public purpose without knowing the truth of these things, and in the face of HTYRA's violation of mandated records disclosure and SCSOC investigation for said violation, is irresponsible fiscal management.

This must be typical for the agency. Otherwise, I would be getting straightforward answers.

I hope to get some in the future.

Thank you,

Katrina Fay

From: BJ Willoughby <bjwilloughby@scprt.com>
To: "kat_fay@ymail.com" <kat_fay@ymail.com>; "kit fay (kat@laurenscountycitizenwatch.com)" <kat@laurenscountycitizenwatch.com>
Cc: "jasmith@oepp.sc.gov" <jasmith@oepp.sc.gov>; Amy Duffy <aduffy@scprt.com>; Alesha Cushman <acushman@scprt.com>
Sent: Thursday, January 24, 2013 3:15 PM
Subject: Hickory Tavern Park

Dear Ms. Fay:

I am sorry that you decided not to meet with SCPRT (PRT) last week to discuss your issues with the administration of the PARD Program. It would have been helpful to my understanding of your concerns. You have complained that PRT has allowed Laurens County Park, Recreation and Tourism Commission (the Commission) to violate "PARD terms" by not requiring the Commission to have control over and to operate the park on a daily basis. You base your allegation on the requirement of Regulation 133-101(G). SCPRT does not interpret this regulation to require sponsor control over the daily operations of the park.

PARD Regulation 133-101(G) states in pertinent part, "The project sponsor must either hold the site in fee simple or have a lease for a term commensurate with the duration of the agreement period where the sponsor has primary control and the purpose of the site is for public recreation." This regulation is the heart of the PARD Program in that the primary responsibility of the administrator of the program is to assure that the PARD funds are utilized to provide public recreation. PARD funds come from revenue from the state's bingo tax.

In this case, the Commission and Hickory Tavern Youth Recreation Association are parties to a lease agreement wherein both parties agree that the controlling management of the Hickory Tavern Park will be under the authority of the Commission. In paragraph 3 of the Lease Agreement the property is placed under the authority of the Commission, and the Hickory Tavern Youth Recreation Association is required to operate the facility as a public recreational facility offering. This provision gives the Commission the legal authority to end the PARD commitment if Hickory Tavern Park, at any time during the term of the lease, ceases to operate as a public park. I believe you are confusing the authority of the sponsor to require the recipient of PARD funding to continue as a public recreation facility, with the authority of the sponsor to run the day to day operations of the park. There are no provisions in the PARD law and/ or regulations that require the sponsor to assume complete control of the operations of a property that is given funds. The requirement is that the sponsor has sufficient control over the property to require that it be operated as a public recreation facility. The administrator of the PARD fund at SCPRT has recently visited the Hickory Tavern Park and is convinced that it continues to operate as a public recreation facility.

There is also a requirement that the proceeds from the operation of the park shall be applied to public recreation at the park or in the community. Paragraph (5a) of the lease agreement is in compliance with this requirement. It states that, "The "Owner" (Hickory Tavern Youth Recreation Association) agrees that the net proceeds from said operations shall be applied to performing its maintenance duties under this contract and that any remaining proceeds shall be applied to providing public recreation in the Hickory Tavern Community." Neither the Laurens County Commission nor the SCPRT have evidence of any misuse of operational funds at Hickory Tavern Park. As I have informed you previously, if you have evidence or proof

of misuse of funds you need to forward those to law enforcement as SCPRT has no criminal investigative powers.

In conclusion, SCPRT believes that the Commission appropriately entered into a lease agreement with the Hickory Tavern Youth Association for the operation of Hickory Tavern Park as a public recreational facility, and that the Park was and continues to be eligible for PARD funding. SCPRT has no evidence at this time that any rules or regulations have been violated in this case.

I hope this information will be helpful to your understanding of the PARD Program.

Sincerely,

BJ Willoughby
General Counsel
SC Department of Parks, Recreation & Tourism
1205 Pendleton St.
Columbia, SC 29201

Phone: (803) 734-1454
Fax: (803) 734-6719
bjwilloughby@scprtl.com

CONFIDENTIALITY NOTICE

THIS EMAIL AND ANY FILE ATTACHED TO IT IS CONFIDENTIAL. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, OR SUBJECT TO CONFIDENTIALITY AND EXEMPTIONS FROM DISCLOSURE UNDER APPLICABLE LAW. IT IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE PERSON RESPONSIBLE FOR DELIVERY TO THE INTENDED RECIPIENT, YOU ARE HEREBY ADVISED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU RECEIVE THIS EMAIL IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY RETURN EMAIL AND PERMANENTLY DELETE THE EMAIL FROM YOUR COMPUTER. THANK YOU.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL 803-734-0166