



As to the Financial Disclosure Statements  
filed by the Integrity Party

Likewise, at oral argument, counselor Furey states that the Village will permit the petitioner to examine the entire file with regard to the Integrity Party including all financial disclosure statements.

As to the front and back sides of all  
Village Checks payable to Village  
Attorney James F. Furey from January 1,  
1980 to the present time.

Petitioner contends that he is entitled to examine both the front and the back sides of all Village checks payable to Village Attorney James F. Furey upon the following grounds: (1) the checks were drawn upon the assets of the Village's general fund, which consists in part of proceeds from collection of taxes from the Village residents, including the petitioner, (2) the Village Attorney is a member of the same professional corporation as the Village Mayor, his father Francis Furey, (3) the public has a right to know whether or not the funds received by the Village Attorney have been co-mingled with the general assets of the law firm, Furey and Furey, P.C., (4) petitioner is entitled to such information under the provisions of Public Officers Law, §67, and (5) since the Village Attorney is a public employee, he must meet the standards of disclosure of his personal finances, as required by law.

The pertinent portions of the Public Officers Law, Article 6, entitled the "Freedom of Information Law", are as follows:

§87(2) (b) "Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that: . . .

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article; . . . ."

§89(2) (b) "(b) An unwarranted invasion of personal privacy includes, but shall not be limited to: . . .

iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it; or

v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency."

As presently constituted, Article 6 declares all agency records open to the public unless they fall within one of the categories of exemptions set forth in Public Officers Law §87(2). The burden of demonstrating that the documents requested are exempt is upon the party who asserts the exemption. Matter of Westchester Rockland Newspapers, Inc. v Kimball, 72 AD 2d 606, 421 NYS 2d 112, aff'd 50 NY 2d 575, 430 NYS 2d 574 (1980);

Matter of Pink v Lefkowitz, 47 NY 2d 567, 571, 419 NYS 2d 467 (1979).

With regard to the "unwarranted invasion of personal privacy" exemption as defined in Section 89(2)(b)(iv), there must be a showing that disclosure of the reverse side of Furey's checks would result in personal hardship to Furey and that such information is not relevant to the ordinary work of the party requesting it. See Matter of Gannett Co. v County of Monroe, 45 NY 2d 954, 411 NYS 2d 557 (1978).

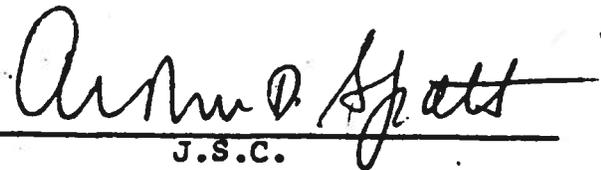
Applying these principles to this case, it is clear that disclosure of the manner in which Village Attorney Furey spent his money would constitute an unwarranted personal hardship to him and also would be irrelevant to any valid requirement of the petitioner. It is not necessary to determine whether the checks given to the Village Attorney have been co-mingled with the general assets of the Furey & Furey law firm. No valid reason for such disclosure has been advanced by petitioner. Nor is Village Attorney Furey required to disclose how he spends his "pay checks" merely because he is a public employee. Disclosure may in some instances be required as to receipt of monies by a public employee but not how he disposes of his lawful salary or fees.

Further, the fact that the Mayor of Valley Stream is the Village Attorney's father furnishes no reason to compel disclosure of how Furey spends his lawfully earned monies.

Disclosure may be had of the front or face side of the checks given to Village Attorney Furey. The reverse side of Furey's checks constitute material which fall squarely within the ambit of the statutory exemption. Accordingly, disclosure of the reverse side of the Furey checks may be withheld. (see also Massina v Lufthansa German Airlines, NYLJ 8/5/81, at p. 14 [2d Dept.]).

All disclosures permitted by this order shall be complied with within twenty (20) days after service of a copy of this order upon respondent's counsel.

Dated: AUG 20 1981

  
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J.S.C.

**ENTERED**

**AUG 20 1981**

**HAROLD W. McCORMACK**  
COURT CLERK OF JUDICIAL DEPARTMENT