

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CITY OF PITTSBURGH,

Plaintiff,

vs.

INTERGOVERNMENTAL
COOPERATION AUTHORITY FOR
CITIES OF THE SECOND CLASS;
HENRY SCIORTINO, Executive
Director; NICHOLAS D.
VARISCHETTI, Chairman of the
Board; ELISE ROBY YANDERS, Vice
Chair of the Board; and MICHAEL I.
DANOVITZ, Secretary of the Board,

Defendants.

CIVIL DIVISION

No. GD15-011194

Code No.

PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS AND
THINGS DIRECTED TO DEFENDANTS

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CITY OF PITTSBURGH,)	
)	No. GD15-011194
Plaintiff,)	
)	
vs.)	
)	
INTERGOVERNMENTAL COOPERATION)	
AUTHORITY FOR CITIES OF THE)	
SECOND CLASS; HENRY SCIORTINO,)	
Executive Director; NICHOLAS D.)	
VARISCHETTI, Chairman of the Board;)	
ELISE ROBY YANDERS, Vice Chair of the)	
Board; and MICHAEL I. DANOVIK,)	
Secretary of the Board,)	
)	
Defendants.)	

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
AND THINGS DIRECTED TO DEFENDANTS**

Plaintiff, City of Pittsburgh, (hereinafter "City" or "Plaintiff"), by and through the undersigned counsel, serves upon the Defendants, the following First Request for Production of Documents requesting that the same be answered within thirty (30) days in accordance with Pa.R.Civ.P 4009.1-4009.12. This First Request for Production of Documents and Things shall be deemed to be continuing in nature so as to require the supplementing of Defendants' responses if and when additional information should become known that is responsive to these Requests for Production of Documents and Things subsequent to the filing of the responses to the same.

DEFINITIONS

A. "Documents and things" shall include, but not be limited to, all written, electronic or graphic matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, letters, correspondence, spreadsheets, portable document format (PDF) file, facsimiles, e-mail, memoranda, minutes, notes, films, recordings of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations or personal conversations, diaries, desk calendars, interoffice communications, account statements, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control.

B. "Communications" shall mean all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, voicemail messages, letters, correspondence, notes, telegrams, telexes, advertisements, facsimiles, e-mail, or other forms of verbal and/or communicative intercourse.

C. Pursuant to Pa. R. Civ. P. 4009.1(b), Plaintiff is requesting that all responsive documents and things that are produced in response to this First Request be produced in its ordinarily maintained form. For example, if an Excel spreadsheet is identified and produced in response to any of the following Requests, it should be produced to Plaintiff in its electronic form by providing it via email, on a portable (flash/thumb) drive or on a CD or DVD.

D. "Plaintiff" shall mean the City of Pittsburgh, the only City of the Second Class in the Commonwealth of Pennsylvania.

E. "Defendant(s)" shall mean each named Defendant in this action, their agents, employees and attorney(s).

F. "ICA" means the Intergovernmental Cooperation Authority of Cities of the Second Class, its officers, directors, employees and board members, whether paid or voluntary, selected or appointed.

G. "Act 11 of 2004" or "Act 11" shall mean the Intergovernmental Cooperation Authority Act for Cities of the Second Class, signed into law on February 12, 2004. 53 P.S. §§ 28102-28707.

H. "Act 71 of 2004" or "Act 71" shall mean the Pennsylvania Race Horse Development and Gaming Act, signed into law on July 5, 2004. 4 Pa. C.S. §§ 1101 et seq.

I. "Person" or "persons" shall mean any natural individual or any corporation, firm, partnership, proprietorship, association, joint venture, governmental entity, or any other business organization, including all agents and representatives.

J. "Gaming revenue" or "funds derived from gaming revenue" shall mean the local share assessment to be distributed to a second class city, as described in 4 Pa. C.S. § 1403.

K. An "agent" of any person shall mean any other person acting or purporting to act for and/or on behalf of such person including any director, officer, counsel or employee thereof.

L. "Any and all documents," "all documents and things" or "any and all documents and things" means any and all documents and things as above defined, known to the Defendant(s) or Defendant's/Defendants' attorney(s), and every such document which can be located or discovered by reasonably diligent efforts.

M. "Relate to" means consist of, refer to, reflect or be in any way logically connected with the matter discussed.

N. The period of time encompassed by these Requests shall be from January 1, 2004 to the date of responding, unless otherwise indicated. Note: This request is continuing up to and at the time of trial.

O. For purposes of these Requests, a statement includes:

- a. A written statement, signed or otherwise adopted or approved by the person making it, or
- b. A stenographic, mechanical, electronic, videographic or other recording, or a transcript thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Any and all documents relating to the ICA's approval of the City of Pittsburgh's budget for the fiscal years 2012, 2013, 2014 and 2015.

RESPONSE:

2. Any and all documents relating to the ICA's approval of the City of Pittsburgh's current five-year financial plan.

RESPONSE:

3. Any and all documents relating to the ICA's disapproval of the City of Pittsburgh's budget for the fiscal years 2012, 2013, 2014 and 2015.

RESPONSE:

4. Any and all documents relating to the ICA's disapproval of or objections to the City of Pittsburgh's current five-year financial plan.

RESPONSE:

5. Any and all documents reflecting the transfer of funds derived from gaming revenue to the ICA in 2013, 2014 and 2015.

RESPONSE:

6. Any and all documents reflecting the ICA's receipt of funds derived from gaming revenue by the ICA in 2013, 2014 and 2015.

RESPONSE:

7. Any and all documents reflecting the ICA's holding or possession of funds derived from gaming revenue in 2013, 2014 and 2015.

RESPONSE:

8. Any and all documents reflecting the interest earned on funds derived from gaming revenue by the ICA in 2013, 2014 and 2015.

RESPONSE:

9. Any and all documents reflecting the ICA's transfer of funds derived from gaming revenue in 2013, 2014 and 2015.

RESPONSE:

10. Any and all documents reflecting the ICA's disbursement of funds derived from gaming revenue in 2013, 2014 and 2015.

RESPONSE:

11. Any and all documents relating to, or reflecting, the audit of gaming revenue funds received by the ICA in 2012, 2013, 2014 and 2015.

RESPONSE:

12. All meeting agendas, minutes and transcripts for or relating to ICA Board meetings in 2013, 2014, and 2015.

RESPONSE:

13. Each and every annual audit of the ICA conducted for the years 2012, 2013, 2014 and 2015.

RESPONSE:

14. Any and all documents relating to, or reflecting, certification of noncompliance with the financial plan by the ICA to the Secretary of Budget under (and as described in) 53 P.S. § 28210(e) during the past five (5) years.

RESPONSE:

15. Any and all documents relating to, or reflecting, a decision by the ICA to place gaming revenue in escrow under Act 11 of 2004 during the last five (5) years.

RESPONSE:

16. Any and all documents identifying or explaining the ICA's rationale or justification(s) for withholding from or refusing to disburse gaming revenue to the City of Pittsburgh in 2012, 2013, 2014 and 2015.

RESPONSE:

17. Any and all documents supporting the ICA's contention that it is in the City of Pittsburgh's best interest for the ICA to withhold Act 71 gaming revenue earmarked to or for the benefit of City during the time period of 2013 through 2015.

RESPONSE:

18. Any and all documents reflecting official action by the ICA's relating to its contention that it is in the best interest of the City of Pittsburgh for the ICA to withhold Act 71 gaming revenue earmarked for the benefit of the City of Pittsburgh during the time period of 2013 through 2015.

RESPONSE:

19. Any and all documents reflecting the date(s) of any determination by the ICA that it is in the best interest of the City of Pittsburgh for the ICA to withhold Act 71 gaming revenue earmarked in 2013, 2014 and 2015.

RESPONSE:

20. Any and all reports and correspondence submitted by the ICA to the Commonwealth of Pennsylvania (including any department, member or representative in the legislative or executive branches of state government) in 2013, 2014 and 2015.

RESPONSE:

21. Any and all certifications, reports, correspondence or other documents relating to, or reflecting, a determination during the last five (5) years by the ICA of noncompliance with the financial plan as described in 53 P.S. § 28210(e).

RESPONSE:

22. Any and all account statements, statements of earned interest, state or federal tax forms, or other documents that reflect gaming revenue deposited, held and withdrawn by or at the direction of the ICA in 2013, 2014, and 2015.

RESPONSE:

23. Any and all account statements, statements of earned interest, state or federal tax forms, or other documents that reflect interest earned or not earned on gaming revenue deposited and held by or at the direction of the ICA in 2013, 2014, and 2015.

RESPONSE:

24. Any and all documents relating to the development and implementation of the new payroll processing system for the City of Pittsburgh from 2012 through the present.

RESPONSE:

25. Any and all documents relating to the ICA's review of the development and implementation of the new payroll processing system for the City of Pittsburgh from 2012 through present.

RESPONSE:

26. Any and all documents relating to official action taken by the ICA with respect to the implementation of the new payroll processing system in the City of Pittsburgh from 2012 through present.

RESPONSE:

CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

By: _____
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of July, 2015, a true and correct copy of the foregoing *Plaintiff's First Request for Production of Documents and Things Directed to Defendants* has been served upon counsel, addressed below, by First Class, U.S. Mail, postage prepaid:

Laura E. Ellsworth, Esq. / Matthew R. Divelbiss, Esq.
Jones Day
500 Grant Street, Suite 4500
Pittsburgh, PA 15219-2514
Counsel for Defendants

CAMPBELL DURRANT BEATTY
PALOMBO & MILLER, P.C.

By: _____
Brian P. Gabriel