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East Lansing Settles Fraud Lawsuit Involving City Attorney ^[1]

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By:

Alice Dreger



Above: City Attorney Tom Yeadon and the retaining wall and sidewalk at the center of the lawsuit.

The City of East Lansing has paid \$20,000 to settle a lawsuit alleging fraud against the federal government and involving the City Attorney. The case centers on the City's use of approximately \$135,000 in Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD) to rebuild a retaining wall and sidewalk on Abbot Road running along the east side of the City Attorney's offices.

Filed in August 2016, the complaint sought damages under the federal False Claims Act. The United States joined as a plaintiff in the suit with Philip C. Bellfy. Bellfy is a property owner and former resident of East Lansing and Professor Emeritus of American Indian Studies at Michigan State University.

Bellfy tells ELi he brought the suit because he was outraged that, "at taxpayer expense," the City rebuilt the retaining wall and sidewalk along the property co-owned by City Attorney Tom

Yeadon.

The suit filed by the United States and Bellfy ^[2] is a type known in courts as Qui Tam, short for a Latin phrase meaning "he who sues in this matter for the king as well as for himself." Colloquially these are known as "whistleblower" lawsuits, and in them, citizens join with the federal government to sue over allegedly fraudulent use of federal funds.

In this case, the United States and Bellfy alleged that the "City of East Lansing, and the McGinty/Hitch Law Firm [Yeadon's firm], and others, were well aware that the retaining wall and sidewalk, while within the City's Right of Way, were privately owned [including by members of the City Attorneys' firm], and, as a consequence, that replacing the retaining wall fell well outside of the "Eligible Activities" provisions of the CDBG, thus perpetuating a fraud on the taxpayers of East Lansing, Michigan, and the United States Government."

The United States and Bellfy further alleged that "the beneficiaries of the unlawful funding were not the general citizens of the City of East Lansing, but the private owners of properties and companies, and, in this case, it should be considered a kickback to the City of East Lansing's City Attorneys, and others, when the law-firm's property was enhanced with HUD-CDBG funding procured by the City of East Lansing."

Defendants named in the case included the City, Yeadon and his partners Tom Hitch and Dennis McGinty, the president of the fraternity to the immediate south of the City Attorneys' offices, various current and former East Lansing staff members, and individuals serving on City Council during the time of the alleged illegal activities.

Settlement puts the legal expenses on the City's taxpayers:

In the settlement agreement ^[3], signed by City Manager George Lahanas (shown below) on November 8, 2017, and obtained by ELi, the City agreed to pay Bellfy \$8,000 and his lawyer \$12,000. Results of a Freedom of Information Act (FOIA) filing by ELi show ^[4] that these payments to Bellfy and his attorney were made five days after Lahanas signed the settlement agreement.



In exchange, the United States and Bellfy agreed to dismiss claims against all the other defendants, meaning that Lahanas agreed on behalf of the City that only the City's taxpayers, and none of the other defendants, will bear the costs of the settlement.

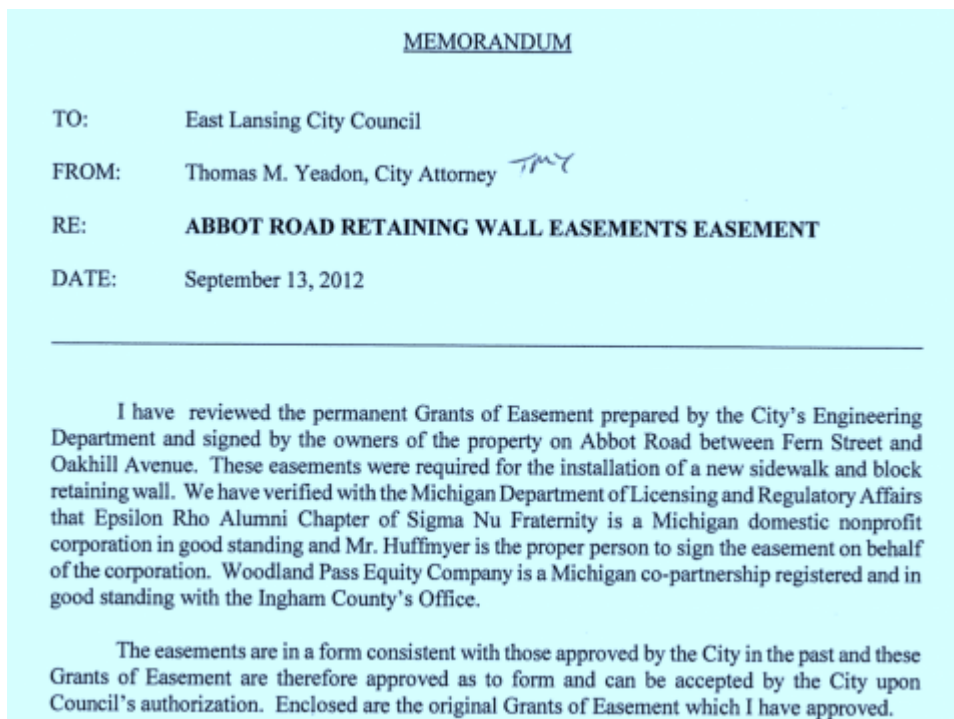
The City appears to also be the only defendant that paid for legal defense of the defendants. (Legal services were provided to the City for this case by Richard L. Hillman of Foster, Swift, Collins & Smith, PC, of Lansing.)

The long history of the conflict of interest allegations:

The settlement agreement lays out the federal government's contention that the use of the funds involved a conflict of interest because (1) the project improved property owned by Woodland Pass Equity Company, of which the City Attorney [Tom Yeadon] is a partner; and (2) the City Attorney exercised functions and responsibilities with respect to the project, insofar as he reviewed easements that the City obtained in connection with the project.

A memo [5] dated September 13, 2012 from Yeadon shows him advising the East Lansing City Council as its attorney on easements related to this project. According to his memo, "These easements were required for the installation of a new sidewalk and block retaining wall." Yeadon names therein the company that owned one of the properties at issue, saying "Woodland Pass Equity Company is a Michigan co-partnership registered and in good standing with the Ingham County's Office."

But Yeadon did not disclose in his memo that he was co-owner of Woodland Pass Equity Company. He is identified in the memo only as "Thomas M. Yeadon, City Attorney." (See the full memo here [5].)



The issue of the potential conflict of interest in this case amounted to an open controversy in the

fall of 2012. At that time, Yeadon strongly rejected suggestions of impropriety.

On October 16, 2012, I published an article [6] reporting that, "The City Attorney, Tom Yeadon, appears to have represented the city in a legal matter while he was also a co-owner of the business entering into the agreement [with the City]". This does not appear to have been disclosed to City Council, nor does it appear that a disclosure would have been enough to make this right? according to the City of East Lansing's ethics law [7].

Shortly after I published the article [6] raising the issue, Yeadon accused me of "libelous innuendo". He demanded a retraction and advised me to speak to my attorney. The article was not retracted; three words were changed, with the changes noted.

A few hours after this email exchange, City Council held a regularly-scheduled meeting and at that meeting approved the easement agreements which had become controversial. At that Council meeting, Yeadon made no disclosure [8] of his co-ownership of Woodland Pass Equity Company or the property, and he continued to act as City Attorney without recusing himself on the matter.

City Manager now asks HUD for an exception to the conflict-of-interest policy:

In accordance with the settlement agreement, on November 28, 2017, City Manager George Lahanas sent HUD a statement [9] retrospectively disclosing the conflict of interest and asking for an exemption to HUD's conflict of interest rules for this matter.

In that exemption request, Lahanas claims that "In 2017 it was brought to the City's attention, after the plans were submitted and approved[,] that a potential conflict of interest existed."

In his request to HUD, Lahanas states that, "Due to the contractual relationship between the McGinty law firm, and the applicant City of East Lansing, the City should have provided a conflict of interest disclosure along with the initial CDBG applications, but inadvertently omitted doing so."

Lahanas was City Manager in 2012 when the controversy over the issue was raging locally, and documents show he was copied on correspondence about the matter during that period.

The project cost a total of about \$150,000, with about \$135,000 coming from HUD CDBG funds and the remainder coming from the City of East Lansing. Lahanas's post-settlement request to HUD states that "there was no significant financial benefit that arose to the property owners including the City attorneys from the project."

The request from Lahanas acknowledges that "The property owners (Woodland Pass LLC) would not be considered a low or moderate income person under HUD definitions of those terms," but suggests that "The sidewalk and retaining wall improvements generally benefit members of the public including low or moderate income persons who would regularly travel on Abbot Road."



Lahanas further tells HUD in his statement that “The City attorneys did not participate in the decision-making process” for the project and that “The cost of the improvement without the grant funding would have been cost prohibitive to the property owner.”

Yeadon’s contract as City Attorney is worth about a half-million dollars per year.

Yeadon’s law firm maintained a no-bid contract with the City of East Lansing for over fifty years when, in February 2016, following election of three new members to Council, City Council decided to pass a resolution ^[10] to put out a call for proposals for a new City Attorney.

Council interviewed other candidates but decided to retain Yeadon ^[11] as the City Attorney. This was several months before the Qui Tam suit was filed.

What does the current City Council have to say now?

As noted above, Lahanas signed the settlement agreement for this suit on November 8, 2017, and five days later the City paid the \$20,000 that the settlement required.

In the past, Council has voted on settlement agreements in open meetings, after discussing them in closed sessions. The Open Meetings Act of Michigan requires that “any votes on matters discussed in the closed session must occur in an open meeting.”

But it does not appear from public records that Council voted on this settlement. It may be the case that Council could not discuss this matter in an open session because all matters related to a Qui Tam suit are under seal except those explicitly released to the public by the court. This is done to protect whistleblowers.

Last Wednesday, January 3, I asked all members of City Council: whether it is true that the

taxpayers are paying all of the costs in this case; whether there have been costs incurred beyond the legal bills and settlement payment; which City funds were used to pay these suit-related costs; whether they think it is ethical for the City to ask for an exception to HUD's conflict-of-interest rule in this case; whether they are aware of any criminal prosecution related to the case; whether they voted to approve the settlement, and if so, when that happened.



We received no responses from Mayor Mark Meadows, Mayor Pro Tem Erik Altmann, and Councilmember Aaron Stephens (above left, right, and center, respectively).

Councilmember Ruth Beier (second from left above) responded to say that, "Since this was an item discussed in closed session under privilege, I doubt you will get an answer" to the ethical and legal questions. She said that Lahanas would know the answers to the questions of cost. She said she thought Council "will ultimately have to vote."

Councilmember Shanna Draheim (second from right above) responded to my questions to say she would expect Lahanas to answer them. As I told Draheim in response, I asked Lahanas these questions back in December, twice, and he has not responded.

A potential benefit to other East Lansing property owners?

Asked if he's satisfied with how the suit turned out, Bellfy says he is not. He is frustrated that the City Manager continues to contend in his post-settlement request to HUD that it is reasonable to have used taxpayer funds to pay for the retaining wall and sidewalk of the "Abbot Road project."

Bellfy suggests that, given the case's outcome, East Lansing property owners might consider demanding "equal protection" and "due process." In other words, he thinks they could demand the City of East Lansing pay to repair *their* sidewalks and retaining walls.

He adds that it should be "stress[ed]" to Council that it appears likely they will incur additional lawsuits and costs if they continue to insist that they are committed to paying for the City

Attorneys' retaining wall and sidewalk. They cannot pay for theirs and refuse to pay for yours.?

Related documents:

- Lawsuit filing by United States ex rel. and Philip C. Bellfy, PhD, vs. City of East Lansing, Michigan, Thomas M. Yeadon, et al ^[2]
- Settlement Agreement in the case ^[3]
- Settlement check to David Gilbert, attorney, and Philip Bellfy ^[4]
- Request by City Manager George Lahanas to HUD for retrospective exception to the conflict of interest rule and retrospective disclosure of conflict of interest ^[9]

Follow-up stories:

- January 9, 2018: Council Approved Fraud Case Settlement, But Did Not Publicly Record the Vote ^[12]
- January 23, 2018: City Refuses to Release Government Communications Related to Fraud Lawsuit ^[13]

Related Categories:

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- [8] <http://eastlansinginfo.org/content/council-approves-agreement-equity-company-without-city-attorney-disclosing-he-co-owns>
- [9] http://eastlansinginfo.org/sites/default/files/lahanas_on_retaining_wall_to_hud_nov_2017.pdf
- [10] <http://eastlansinginfo.org/content/city-attorney-may-change-position-opens>
- [11] <http://eastlansinginfo.org/content/council-interviews-city-attorney-retains-yeadon>
- [12] <http://eastlansinginfo.org/content/council-approved-fraud-case-settlement-did-not-publicly-record-vote>
- [13] <http://eastlansinginfo.org/content/city-refuses-release-government-communications-related-fraud-lawsuit>
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