

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE
BUREAU OF SECURITIES REGULATION**

_____))
IN THE MATTER OF:))
Local Government Center, Inc.; Local))
Government Center Real Estate, Inc.;))
Local Government Center Health Trust,))
LLC; Local Government Center))
Property-Liability Trust, LLC;) Case Number C-2011000036
Health Trust, Inc.; New Hampshire))
Municipal Association Property-Liability))
Trust, Inc.; LGC-HT, LLC; Local))
Government Center Workers'))
Compensation Trust, LLC; and the))
following individuals: Maura Carroll,))
Keith R. Burke, Stephen A. Moltenbrey,))
Paul G. Beecher, Robert A. Berry,))
Roderick MacDonald, Peter J. Curro,))
April D. Whittaker, Timothy J. Ruehr,))
Julia N. Griffin, Paula Adriance, John))
P. Bohenko, and John Andrews))
_____)

**INITIAL REPSONSE TO LGC MOTION FOR SUBPOENA AND MOTION TO CANCEL JAN. 17, 2012
HEARING**

Now Comes the Professional Fire Fighters of New Hampshire (“PFFNH”) by and through counsel, Molan, Milner & Krupski, PLLC, and respectfully submits this initial response to the LGC Motion for Subpoena as follows:

1. On or about December 22, 2011, PFFNH’s counsel agreed to accept service of a subpoena duces tecum for a deposition that is planned on January 23, 2012.

2. Brian M. Quirk, Esq., counsel for the LGC Respondents (“LGC”), issued the subpoena duces tecum requesting both documents and the PFFNH President’s testimony regarding:

- a) “Any and all E-mails and any other written correspondence between the New Hampshire Bureau of Securities Regulation and David Lang and/or the Professional Fire Fighters of New Hampshire (“PFFNH”) or any affiliated entity from July 2009 through to the present regarding Local Government Center, Inc. and any of its affiliates, and/or any of the issues raised in the New Hampshire Bureau of Securities Regulation’s Staff Petition dated September 2, 2011.”
- b) “Any and all E-mails and any other written correspondence between Secretary of State William Gardner and David Lang and/or the PFFNH or any affiliated entity from July 2009 through to the present regarding Local Government Center, Inc. and any of its affiliates, and/or any of the issues raised in the New Hampshire Bureau of Securities Regulation’s Staff Petition dated September 2, 2011.”
- c) “Any and all E-mails and any other written correspondence between any third party and David Lang and/or the PFFNH or any affiliated entity from July 2009 through to the present regarding Local Government Center, Inc. and any of its affiliates, and/or any of the issues raised in the New Hampshire Bureau of Securities Regulation’s Staff Petition dated September 2, 2011.”

3. In response to PFFNH's Motion to Quash Subpoena, LGC withdrew its subpoena and, instead, filed its motion (filed Jan. 10, 2012) asking that the Hearing Officer issue the same subpoena.

4. PFFNH submits that the Hearing Officer lacks any statutory authority to issue a subpoena on behalf of a Respondent party to a RSA 421-B proceeding.

5. RSA 421-B: 22 (II) provide that: "[f]or the purpose of any investigation, hearing or proceeding under this title, the secretary of state or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the secretary of state deems relevant or material to the inquiry."

6. A plain reading of the statute indicates subpoenas may only be issued by the moving party in these proceedings and only if the moving party (not any Respondent) deems the compelled testimony "relevant or material to the inquiry".

7. LGC cites no authority or instance where a Hearing Officer has ever issued a subpoena on behalf of a Respondent in a RSA 421-B proceeding.

8. Further, LGC filed its Motion on Jan. 10, 2012 and PFFNH respectfully requests the customary ten days to file a more detailed objection (due date Jan. 20, 2012).

9. Moreover, since the PFFNH Motion to Quash is now moot (given the LGC withdrawal of the subpoena), the hearing now scheduled for next Tuesday is similarly moot and should be rescheduled (following the PFFNH objection due date of Jan. 20, 2012) in the event the Hearing Officer believes a hearing is necessary to decide what appears to be a rather straightforward issue: the LGC, either on its own or via motion to the hearing officer, lacks statutory authority to compel deposition testimony in RSA 421-B proceedings.

10. PFFNH incorporates by this reference the argument contained in the BSR Motion in Support of PFFNH Motion to Quash (filed Jan. 10, 2012). PFFNH incorporates by this reference its previously filed Motion to Quash.

11. Further to be noted is the onerous task required of the PFFNH in connection with the document and testimony request made by LGC; especially the third request concerning any and all communication from PFFNH to any other person concerning (in any fashion) the LGC since 2009. This would include protected attorney client privileged information and would otherwise require a lengthy and expensive effort to compile such information. PFFNH and LGC have been litigant and political "combatants" for many years and the request is otherwise wholly irrelevant to these proceedings and is surely designed merely to harass the PFFNH.

12. Once again, given the LGC's stated position on how tenuous PFFNH's connection is to this case and the vehement opposition to PFFNH's request to intervene in this matter, (let alone the lack of any legal basis to issue the subpoena) they should not be permitted to launch a 'fishing expedition' on matters entirely irrelevant to these proceedings.

13. Counsel for LGC has agreed that their deposition date of Jan. 23, 2012 (as contained in their proposed Subpoena) is cancelled subject to rescheduling in the event their Motion for Subpoena is granted. As to the PFFNH request to cancel the Jan. 17, 2012 hearing and to allow until Jan. 20, 2012 for PFFNH to file a more detailed objection, LGC takes no position.

14. Counsel for the BSR assents to the relief sought herein.

WHEREFORE, PFFNH respectfully requests the following relief:

- A. Deny the LGC Motion for Subpoena;
- B. Allow PFFNH until Jan. 20th to submit a more detailed objection to the LGC Motion;
- C. Cancel the Hearing now scheduled for Jan. 17, 2012;
- D. Following the PFFNH submission on Jan. 20, 2012, conduct a hearing on the LGC motion in the event the Hearing Officer deems such hearing necessary; or
- E. Grant such other relief as the Hearing Officer deems appropriate, within the statutory confines of RSA 421-B.

Respectfully submitted,
PFFNH
By and through counsel
MOLAN, MILNER & KRUPSKI, PLLC

January 12, 2012

/s/ Glenn R. Milner, Esq.
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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was this same day forwarded via electronic mail to Andru Volinsky, Esq., Earl Wingate, Esq., William Saturley, Esq., David Frydman, Esq., Brian M. Quirk, Esq., Michael D. Ramsdell, Esq.,

/s/ Glenn R. Milner, Esq.
Glenn R. Milner, Esq.

