

1 FILED
2 2026 MAY 13 11:16 AM
3 KING COUNTY
4 SUPERIOR COURT CLERK
5 E-FILED
6 CASE #: 24-2-25581-8 KNT

7 SUPERIOR COURT OF WASHINGTON
8 FOR KING COUNTY

9 CHARLES JOHN SCHAEFER,

10 Plaintiff,

11 vs.

12 CITY OF BURIEN, a municipal corporation,

13 Defendant.

Cause No.: 24-2-25581-8 KNT

ORDER DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT AND
GRANTING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

14 This matter came before the Court on the parties' cross-motions for summary judgment.

15 The Court has considered the following:

- 16 1. Plaintiff's Motion for Summary Judgment;
- 17 2. Defendant City of Burien's Response in Opposition to Plaintiff's Motion for
18 Summary Judgment;
- 19 3. Plaintiff's Reply on Plaintiff's Motion for Summary Judgment;
- 20 4. Defendant City of Burien's Motion for Summary Judgment with attached
21 exhibits;
- 22 5. Declaration of Abigail Trees in Support of Defendant City of Burien's Motion for
Summary Judgment;
6. Plaintiff's Response to Defendant's Motion for Summary Judgment;

1 7. Defendant’s Reply; and

2 8. The unredacted five documents listed in the City’s exemption log provided for *in*
3 *camera* review.¹

4 **The following facts are undisputed:**

5 1. On September 25, 2023, Schaefer made a request to the City of Burien (“the
6 City”) under the Public Records Act for “All council and staff feedback on the city manager’s
7 evaluation as well as any records summarizing the results of the evaluation.”

8 2. In response, the City produced two documents: 1) The 6-month Performance
9 Evaluation Summary dated August 10, 2023; and 2) An exemption log listing five documents
10 withheld in their entirety.

11 3. The five documents listed in the exemption log were titled as follow: 1) Goals
12 Worksheet 1.9.23; 2) 00-6-6-Month Survey Evaluation – Executive Session – Goals 06122023;
13 3) Confidential – City Manager 6-Month Feedback Report 6.2.23; 4) City of Burien CM
14 Evaluation Interviews – Notes (City of Burien CM Interview Analysis (Tom)); and 5) City
15 Manager 6-Month Evaluation Online Survey.

16 4. The City claimed exemptions of the first document titled Goals Worksheet 1.9.23
17 based on “unresponsiveness” and RCW 42.56.280. The City claimed exemptions for the other
18 four documents based on RCW 42.56.280, RCW 42.30.110(1)(g), RCW 42.56.050, RCW
19 42.56.230, and breach of contract. The City now additionally claims an exemption for these
20 documents based on “unresponsiveness.”

21
22

¹ These five documents will be filed under seal pursuant to *Seattle Times Co. v. Ishikawa*, 97 Wash.2d 30, 640 P.2d 716 (1982).

1 5. On May 8, 2026, the Court issued an Order Reserving on Parties' Cross-Motions
2 for Summary Judgment and Ordering *In Camera* Review of Withheld Documents to determine
3 whether there was any genuine dispute that each of the documents were exempted on the bases
4 set forth by the City.

5 6. The Court has reviewed the withheld five documents listed in the City's
6 exemption log.

7 **The Court hereby orders:**

8 1. Summary Judgment is appropriate when the pleadings and other materials on file,
9 together with the affidavits, if any, show that (1) no genuine issue exists as to any material fact,
10 and (2) the moving party is entitled to judgment as a matter of law. Civil Rule 56(c). The
11 question before the Court is whether there is a genuine dispute that the City violated the Public
12 Records Act, RCW 42.56, by withholding the five documents listed in the City's exemption log
13 in response to Schaefer's public disclosure request.

14 2. The Public Records Act "is a strongly worded mandate for broad disclosure of
15 public records." *Soter v. Cowles Publ'g Co.*, 162 Wash.2d 716, 731, 174 P.3d 60 (2007).
16 Government agencies must disclose a public record upon request unless the record falls within a
17 specific exemption. RCW 42.56.070(1). If withholding a document in response to a public
18 disclosure request, the burden of proof is on the government "to establish that the refusal to
19 permit public inspection and copying is in accordance with a statute that exempts or prohibits
20 disclosure." RCW 42.56.550(1).

21 3. The Court agrees with the City that "The ordinary meaning of 'feedback' is
22 comments or reactions provided in response to an evaluation." Defendant City of Burien's
Motion for Summary Judgment, p. 5 (citing to Cambridge Dictionary's definition of "feedback")

1 as “information or statements of opinion about something [...] that can tell you if it is successful
2 [...]”). With that definition in mind, “feedback on the city manager’s evaluation” would
3 constitute records containing information in response to or about the August 10, 2023 evaluation
4 summary.

5 4. The first document listed in the exemption log – referenced as “Goals Worksheet
6 1.9.23” – is described by Abigail Trees, the Records Administrator for the City of Burien, as “a
7 worksheet prepared by Nash Consulting to assist councilmembers in brainstorming and
8 developing potential goals for the City Manager.” Declaration of Abigail Trees in Support of
9 Defendant City of Burien’s Motion for Summary Judgment, Dkt. 41. Upon review of this
10 document, the Court concludes that because this document does not contain any feedback on the
11 August 10, 2023 City Manager evaluation, there is no genuine dispute that the document is not
12 responsive to Plaintiff’s request.

13 5. The second document listed in the exemption log – referenced as “0-6 6-Month
14 Survey Evaluation – Executive Session – Goals 06122023” – is a “review of survey questions &
15 ratings.” Decl. of Trees. Trees states, “This record appears to be a summary of the survey
16 presented to Councilmembers in executive session. It includes aggregated numerical ratings
17 reflecting how certain groups responded to the survey questions, as well as selected excerpts of
18 qualitative feedback.” *Id.* Upon review of this document, the Court concludes that because this
19 document does not contain any feedback on the August 10, 2023 City Manager evaluation, there
20 is no genuine dispute that this document is not responsive to Plaintiff’s request.

21 6. The third document listed in the exemption log – referenced as
22 “CONFIDENTIAL – City Manager 6-Month Feedback Report 6.2.23” – consists of feedback
about the City Manager and *for* his evaluation. The Court concludes that because the document

1 summarizes feedback received by the consultant about the City Manager and does not include
2 feedback on the August 10, 2023 City Manager evaluation, this document is not responsive to
3 Plaintiff's request.

4 7. The fourth document listed in the exemption log – referenced as “City of Burien
5 CM Evaluation Interviews – Notes (City of Burien CM Interview Analysis (Tom))” – consists of
6 feedback about the City Manager. Because there is no mention of the August 10, 2023 City
7 Manager evaluation, the Court concludes there is no genuine dispute that this document is not
8 responsive to Plaintiff's request.

9 8. The fifth document listed in the exemption log – referenced as “City Manager 6-
10 month Evaluation Online Survey” – consists of 126 questions to individuals about the City
11 Manager's performance. Because there are no questions and no responses which would
12 constitute feedback on the August 10, 2023 City Manager evaluation, the Court concludes there
13 is no genuine dispute that this document is not responsive to Plaintiff's request.

14 9. In making his argument that the withheld documents were subject to public
15 disclosure, Schaefer relied heavily on the decision in *Spokane Research & Defense Fund v. City*
16 *of Spokane*, 99 Wash.App.452, 994 P.2d 267 (2000). Typically, performance evaluations of City
17 Managers will be subject to public disclosure. *Id.* In *Spokane Research*, the City of Spokane
18 conducted an annual evaluation of the job performance of Mr. Pupo, the Spokane City Manager
19 at the time. *Id.*, at 454. As part of this evaluation, an outside consulting firm was hired to
20 distribute 125 questionnaires to elicit responses which, in part, would be used by the City
21 Council in determining whether to retain Mr. Pupo in the position of City Manager. *Id.* The
22 Plaintiff, Spokane Research & Defense Fund, submitted the following public disclosure request:
“a copy of summaries or tabulation of responses or other synopses used or being used by the City

1 Council concerning [Mr. Pupo, the City Manager].” *Id.* The *Spokane Research* Court concluded
2 that while performance evaluations of public employees were not typically subject to public
3 disclosure, the performance evaluation of a City Manager was different. 99 Wash.App. 452, 457,
4 994 P.2d 267 (2000). Because “the Spokane City Manager is the City’s chief executive officer,
5 its leader and a public figure,” the City Manager’s performance “is a legitimate subject of public
6 interest and public debate.” *Id.* Furthermore, “a person in the position of Spokane City Manager
7 cannot reasonably expect that evaluations of the performance of his or her public duties will not
8 be subject to public disclosure.” *Id.* Had Schaefer made the same or a largely similar public
9 disclosure request, this Court, when performing an analysis under RCW 42.56.050, would likely
10 have concluded that disclosure of documents containing feedback considered for purposes of the
11 Burien City Manager’s evaluation summary was not “highly offensive to a reasonable person”
12 and was a “legitimate concern to the public.” However, Schaefer’s specific request - for feedback
13 “on” the City Manager’s evaluation – was notably different from the request made in *Spokane*
14 *Research*. Consequently, this Court need not perform an analysis under RCW 42.56.050 since
15 the five documents listed in the City’s exemption log were unresponsive to Schaefer’s request.

16 10. Additionally, due to the unresponsiveness, the Court need not determine whether
17 the other bases for exemptions listed by the City - RCW 42.56.280, RCW 42.30.110, RCW
18 42.56.230 or breach of contract – are valid.

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED, the Plaintiff’s Motion for
20 Summary Judgment is DENIED and Defendant’s Motion for Summary Judgment is GRANTED.

21 DATED this 12th May, 2026.

22
(signed electronically below)
JUDGE MAUREEN MCKEE

**King County Superior Court
Judicial Electronic Signature Page**

Case Number: 24-2-25581-8 KNT
Case Title: SCHAEFER VS CITY OF BURIEN
Document Title: Order
Date Signed: 05/13/2026



Judge: Maureen A McKee

Key/ID Number: *372328276*
Page Count: This document contains 6 page(s) plus this signature page.