

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 12-006

RESPONDENT: Judge John Hrcir, Presiding Judge, City of Garden Ridge Municipal Court

DATE: October 1, 2012

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood; Judge David Peeples; Judge Jeff Walker; Judge Kelly G. Moore

Petitioner requested from Respondent “the City’s Municipal Court file and information found” related to Petitioner’s complaint. Petitioner also requested “all complaints, judgments, orders and other municipal records that relate to or concern Ordinance No. 34 for the last ten (10) years.” Respondent denied Petitioner’s request stating that the requested records are not judicial records under Rule 12 because they pertain to the court’s adjudicative function. Petitioner then filed this appeal.

The threshold issue in a Rule 12 appeal is whether the requested records are “judicial records,” which are defined by Rule 12.2(d) as follows:

“Judicial record means a record made or maintained by or for a court or judicial agency in its regular course of business *but not pertaining to its adjudicative function*, regardless of whether that function relates to a specific case. *A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record.*” (Emphasis added.)

Respondent is correct. The records that Petitioner has requested pertain to the court’s adjudicative function; therefore, they are not “judicial records” as defined by Rule 12.2(d) and they are not subject to Rule 12. We note, however, that case records or court records which are not “judicial records” within the meaning of Rule 12 may be open pursuant to other law such as the common-law right to public access. *See* Rule 12 Decisions 00-001 and 00-003. We also note that the primary significance of a decision finding that a record is not subject to Rule 12 is that the Rule 12 procedures for responding to requests and appealing the denial of requests do not apply. Neither the fact that a record is not subject to Rule 12 nor a decision making this determination should be used as a basis for withholding records.

Because the records at issue are not judicial records under Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.