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LICENSED IN CO, NM AND SD\*

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**VIA EMAIL ONLY**

December 10, 2025

Ethan Watson, City Clerk

**Re: *BOE 08-2025; Ely v. Gessing***

Dear Mr. Watson:

This letter serves as notice that our firm will be representing Mr. Gessing and the Rio Grande Foundation in this matter going forward.

This letter also serves as formal notice that Mr. Gessing will not be participating in further in your process past this letter. Let me begin by expressing my deep disappointment that at the callous disregard for constitutionally protected liberty that your letter demonstrates from you and, more importantly, from Mr. Ely, who as a lawyer and a former state representative, had a hand in the adoption of the New Mexico Civil Rights Act. It is beyond well-settled that the First Amendment protects not just the right to speak publicly but also the right not to have your speech compelled by our government. *See Wooley v. Maynard*, 430 U.S. 705, 714, 97 S. Ct. 1428, 1435, 51 L. Ed. 2d 752 (1977) (“We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all.”)

Thus, as you should have suspected, being a lawyer yourself with whom I have personally interacted with in attendance at the New Mexico Foundation for Open Government's Dixon First Amendment Awards Luncheon, your letter proposes to force Mr. Gessing to participate and speak in investigation for which he has clearly announced that he has no intention of cooperating. Your correspondence and any attempt to compel his participation would be a violation of rights protected by the First Amendment and New Mexico Constitution Art. II, Sec. 17. Moreover, Mr. Ely's complaint on behalf of Mayor Keller's campaign and your response have all the trappings retaliation for Mr. Gessing's protected speech criticizing Mayor Keller and discussing the election which is also in violation of Mr. Gessing's constitutionally protected liberty.

This letter is to serve as fair warning that if you, the BOE or the Mayor persists in continuing the efforts to retaliate or compel Mr. Gessing's speech that we will pursue an action in District Court under the New Mexico Civil Rights Act and 42 U.S.C. §1983 for injunctive relief and damages plus our attorney's fees as provided for by law. We trust that this correspondence will make the end of your inquiry as far as it concerns Mr. Gessing and the Rio Grande Foundation and expect confirmation in writing from you of the same immediately to avoid our need to initiate litigation.

Thank you for opportunity to provide this information to your office and the Board of Elections.

Sincerely,



A. Blair Dunn, Esq.