

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
45COMMITTEE, INC.,)	
)	
Plaintiff,)	Civ. No. 22-502 (ABJ)
)	
v.)	
)	
FEDERAL ELECTION COMMISSION,)	NOTICE
)	
Defendant.)	
_____)	

**FEDERAL ELECTION COMMISSION’S NOTICE
OF SUBSEQUENT DEVELOPMENTS**

The Federal Election Commission (“FEC” or “Commission”) hereby provides notice of subsequent factual developments. The composition of the Commission recently changed, with Dara Lindenbaum sworn in a Commissioner on August 2, 2022. *FEC, Dara Lindenbaum Sworn In As Commissioner* (Aug. 2, 2022), <https://www.fec.gov/updates/dara-lindenbaum-sworn-in-as-commissioner/>. Soon thereafter, on August 29, 2022, there was a successful vote to close the file in FEC Matter Under Review (“MUR”) 7486, an administrative enforcement matter involving plaintiff 45Committee, Inc. (“45Committee”). As a result of that file closure, information from the MUR that was the subject of previous exemption claims will be released, and the 45Committee will shortly have all of the information it has sought in this action.

The FEC Commissioners voted 4-1 (with one abstention) to close the file in MUR 7486. 45Committee, the respondent in this MUR and the plaintiff in this case, has been notified of this action. As a result, the Commission will place on the public record categories of documents integral to its decision-making process in the MUR, including certifications of Commission votes and Commissioner statements of reasons, in accord with the agency’s

disclosure policy. *See* FEC, Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702, 50,703 (Aug. 2, 2016). The Commission will do so as soon as practicable and generally endeavors to do so within 30 days. *Id.*

The closure of the MUR 7486 file and resulting disclosures will affect the pending cross motions for summary judgment in this Freedom of Information Act “(FOIA”) case. (FEC’s Mot. for Summ. J. (“Motion”) (June 24, 2022) (ECF No. 18); Pl.’s Cross-Mot. for Summ. J. and Opp’n to Def’s Mot. for Summ. J. (July 15, 2022) (ECF No. 19).) Because defendant 45Committee will soon have access to all of the documents it sought, this development will effectively moot the summary judgment motions and this case. The Commission has argued that the documents were permissibly withheld under the deliberative process privilege pursuant to FOIA Exemption 5. (Motion at 7-15.) In particular, the Commission had explained that the agency’s final decision with regard to the merits of MUR 7674 had not yet occurred, and that the agency’s decision-makers remained “free to change their minds.” (Motion at 8-9.) The Commission also noted that a new FEC Commissioner had recently been confirmed, so the agency would soon have a different composition to review enforcement matters. (FEC’s Opposition to Plaintiff’s Motion for Summary Judgment and Reply in Support of its Motion for Summary Judgment at 3 & n.1 (Aug. 5, 2022) (ECF No. 22).)

The Commission will confer with plaintiff 45Committee to confirm its agreement that the pending motions will soon become moot and to propose an appropriate course of action for the

interim period. Given the fully briefed motions before the Court, the Commission wanted to provide this immediate update.

Respectfully submitted,

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September 1, 2022

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2022, I served the foregoing pursuant to Fed. R. Civ. P. 5(b)(2)(E) on counsel of record, as a registered ECF user, through the Court's ECF system.

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