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EDC, Clerk of Court File Written Closing Arguments

By Space Coast Daily // February 26, 2014



EDC CONTENDS THAT IT IS NOT A PUBLIC AGENCY

Case Stems From the EDC's Refusal To Provide the Clerk of Court Files Regarding BlueWare

ABOVE VIDEO: *Brevard County Clerk of Court Scott Ellis talks about his Second Amended petition, and on the briefs that both the Clerk and EDC were ordered to file for the court's review to determine whether or not the EDC is subject to Chapter 119, Florida Statutes with regard to the public's access to public records.*

BREVARD COUNTY • TITUSVILLE, FLORIDA – In the case of Brevard County Clerk of Court, Scott Ellis vs. the Economic Development Commission of Florida's Space Coast, both parties have filed their written closing arguments today, as directed by Judge John "Dean" Moxley.

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The two-day hearing in the case of Brevard County Clerk of Court, Scott Ellis vs. the Economic Development Commission of Florida's Space Coast ended with on Feb. 1 with Judge Moxley instructing the attorneys for both parties to write closing arguments, applying the evidence introduced in court to the "Schwab Test."

The Schwab Test is a 1992 case that involved the News & Sun-Sentinel Company and the Schwab, Twitty & Hanser Architectural Group.

Among the important questions the Schwab Test takes into consideration are:

- Was the private entity created by the public agency?
- For who's benefit is the private entity is functioning?
- What is the level of public funding?
- Is there commingling of funds?
- Was the activity conducted on publicly owned property?
- Are the services contracted for are an integral part of the public agency's decision-making process?
- Is the private entity performing a governmental function, or a function which the public agency otherwise would perform?
- What is extent of the public agency's regulation of, or control over the private entity?
- Does the public agency has a substantial financial interest in the private entity?

The case stems from the EDC's refusal to provide the Clerk of Court files regarding BlueWare, a company who contracted for services with Brevard County to scan documents for the Clerk of Court office while Mitch Needelman held office. The EDC contends that it is not a public agency and is not subject to any public records laws.

RELATED STORY: [Mitch Needelman Arrested, Warrant For Rose Harr Issued](#)

In a statement on behalf of the Brevard County Clerk of Court office, Tyler

Winik said:

“We're confident that the Clerk has presented sufficient evidence to indicate that the EDC is subject to Florida's Public Records Act when it is utilizing public funds to perform its functions.



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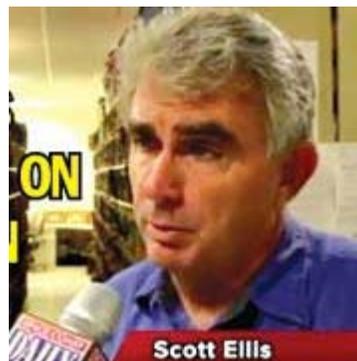


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Scott Ellis

"The timeline put forth in court shows the current public-private partnership we know as the EDC evolved from what was once the county's Brevard Economic Development Council.

The conversion was done with the county's approval to delegate a single point of contact for the county's economic development needs. The EDC could not have been viable without the initial seed appropriation the county provided in 1989. The county's continued \$1.4 million funding enables the EDC to provide the services and programs offered. Our belief is the county taxpayer is entitled to have a transparent view on how their money is spent."

EDC President and CEO Lynda Weatherman in a statement said:

“

"We are eager to get resolution and thankful the process is moving forward. Our counsel will now draft a legal brief highlighting why our arguments and the evidence presented support our position, and that brief will be provided to the judge in late February for his review and ruling.



Lynda Weatherman

"We are excited and ready to get back to work helping to strengthen Brevard County's economy through business retention and expansion and our growing roster of innovative community programs such as Made In Brevard and G.O. Contracts. That has always been, and remains, our mission and our focus."

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