

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Bill Braun,

Complainant,

**ORDER DENYING REQUEST
FOR RECONSIDERATION**

vs.

Matt Novak, Code Enforcement Officer for
the City of Woodbury,

Respondent.

On August 15, 2016, Bill Braun, a candidate for election to the Woodbury City Council, filed a campaign complaint with the Office of Administrative Hearings. The Complaint alleged that City officials violated Minn. Stat. § 211B.10, subd. 1 (2016), with respect to his candidacy for election to the city council.

By Order dated August 17, 2016, Administrative Law Judge Eric Lipman dismissed the complaint in its entirety.

On August 23, 2016, the Complainant filed a request for reconsideration with Chief Judge Tammy Pust.

Based on the record herein, and for the reasons stated in the following Memorandum, the Chief Administrative Law Judge makes the following:

ORDER

IT IS ORDERED THAT:

That Complainant's Request for Reconsideration is **DENIED**.

Dated: August 26, 2016



TAMMY L. PUST
Chief Judge

MEMORANDUM

The Complainant seeks reconsideration of the August 17, 2016, Order Finding No Prima Facie Violation and Dismissing Complaint.¹ The Complainant asserts that Judge Lipman erred when he found the Complainant failed to allege a prima facie violation of Minn. Stat. § 211B.10 (2016). The Complainant asks that his request for reconsideration of the prima facie determination be granted and that the complaint proceed to a hearing.

Petitions for reconsideration are governed by Minn. Stat. § 211B.34, subd. 3 (2016).² Under this statute, they are permitted *only* if the administrative law judge dismisses the complaint following a probable cause hearing. In such instances, requests for reconsideration must be directed to the Chief Administrative Law Judge and filed within two business days after the dismissal.³ Requests for reconsideration may only be granted if the Chief Administrative Law Judge determines that the assigned administrative law judge made “a clear error of law.”⁴

There is no provision in the statute for reconsideration of an Administrative Law Judge’s prima facie determination. Instead, as indicated in the Notice provision of the Order Dismissing the Complaint, a party aggrieved by the decision may seek judicial review of the decision as provided in Minn. Stat. §§ 14.63-.69 (2016).

The Complainant’s request for reconsideration is denied.

T.L.P.

¹ Because it appears that the Complainant did not copy the Respondents on his request for reconsideration, a copy of the Complainant’s submission is included with this Order.

² Complaints alleging violations of Minn. Stat. ch. 211A or 211B (2016) are subject to the procedures set forth in Minn. Stat. §§ 211B.31 to 211B.37. Section 211B.36, subd. 5, expressly states that campaign complaints are not contested cases within the meaning of chapter 14 (the Administrative Procedure Act) and are not otherwise governed by chapter 14. Accordingly, complaints brought under Minnesota Statutes chapter 211A and 211B are not subject to the provisions of the APA or the procedural rules adopted under Minn. R. ch. 1400 (2015).

³ Minn. Stat. § 211B.34, subd. 3(b).

⁴ *Id.*