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Press Release

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### **WCOG recognizes Lynn Brewer for holding state agency to account for records lapses**

SEATTLE – The Washington Coalition for Open Government (WCOG) has recognized strategic adviser and mediator Lynn Brewer with a Key Award for holding the Washington state Employment Security Department (ESD) to account for violating the Public Records Act. She also forced agency reforms with her settlement agreement.

The independent, nonpartisan coalition presents Key Awards throughout the year to people and organizations that do something notable for the cause of open government.

Brewer, who has a law degree, submitted a public records request with ESD a few weeks after the public learned of an estimated \$600 million benefit fraud at the agency in the spring of 2020, amid precipitous job losses at the beginning of the pandemic.

On June 6, 2020, she asked the agency for 10 weeks of emails between Gov. Jay Inslee and then-ESD Commissioner Suzi LeVine that related to unemployment claims and benefits. By early November, five months later, Brewer had yet to receive a single record.

Her experience was shared by many as the agency's thinly staffed public records operation was overwhelmed by a surge of records requests following the fraud disclosures. Making matters worse, agency leaders imposed unnecessary procedures for handling requests, slowing response times even more. In a further complication, leadership told the public records officer to report to an administrator with a conflict of interest in disclosing documents related to the fraud.

Many requesters had little recourse but to wait. Brewer did not; instead, she sued the agency.

On Nov. 13, 2020, she filed a lawsuit that argued that ESD had violated the state Public Records Act. Brewer was represented by Tacoma attorney Joan Mell, who is a WCOG board member.

The agency signed a settlement agreement with Brewer on June 11, a year and five days after she had submitted her public records request.

ESD agreed to pay Brewer \$100,000 and change certain policies and practices. Department officials ended the practice of notifying agency employees of public records requests when such notice is neither legally required nor permissible. The agency also agreed to prohibit its employees from conducting business by text message or chat that would produce a public record. Any such exchanges that do occur must be retained.

“This was my first public records request, and I had no idea that it would take more than a year to get public records from a state agency,” Brewer said. “While I doubt we will ever fully know how any agency could lose \$650 million, I felt it was my duty to try and figure out what had happened because people were losing their housing and even attempting suicide when benefits were inappropriately withheld without explanation.”

She added, “While I am honored to have been recognized by WCOG for the efforts made to get answers to some of the questions, the award really goes to those who tirelessly rang the alarm bell as to the problems at ESD.”

“It is for this reason we demanded that changes be made to the way ESD responds to public records requests, which the agency is now duty bound to uphold to ensure that no one has to wait more than a year to get access to public records,” Brewer said.

WCOG President Mike Fancher said, “Citizen vigilance is the key to keeping government open and transparent. Lynn Brewer epitomizes that idea. She wouldn’t take no for an answer, and WCOG is proud to honor her.”

He continued, “The spirit behind Brewer’s and WCOG’s efforts can be found in the preamble to Washington state’s open-government law, which says: ‘The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.’”

The Washington Coalition for Open Government is a nonpartisan, nonprofit organization founded in 2002. We are an independent, broad-based advocate for public records, open meetings and informed citizens.

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