

[Cite as *Naymik v. Northeast Ohio Areawide Coordinating Agency*, 2018-Ohio-2356.]

MARK NAYMIK	Case No. 2017-00919PQ
Requester	Judge Patrick M. McGrath
v.	<u>ENTRY OF DISMISSAL</u>
NORTHEAST OHIO AREAWISE COORDINATING AGENCY	
Respondent	

{¶1} On November 14, 2017, requester Mark Naymik of Cleveland.com sued respondent Northeast Ohio Areawide Coordinating Agency (NOACA), alleging a denial of access to public records. By his complaint Naymik sought documents related to a governmental bid for a second national headquarters of Amazon, Inc. NOACA, however, opposed Naymik’s request for documents, claiming that the requested documents were proprietary and a trade secret. After mediation failed to successfully resolve all disputed issues between the parties, the matter was submitted to a special master of this court.

{¶2} On April 27, 2018, a special master issued a report and recommendation wherein the special master found that NOACA had failed to show that any information in the disputed document constituted a trade secret and wherein he recommended that the court issue an order directing NOACA to provide Naymik with an unredacted copy of the requested record. The special master further recommended that Naymik should be entitled to recover the amount of filing fee and any other costs associated with the action that he incurred. Thereafter, on May 10, 2018, NOACA filed a response to the special master’s report and recommendation wherein it represented that “in an attempt to bring this matter to closure, prevent it from being a further distraction to our work, and in the spirit of transparency, NOACA has chosen at this time voluntarily to disclose the information requested by Mr. Naymik in his original complaint.”

{¶3} As noted by the Ohio Supreme Court: “It has been long and well established that it is the duty of every judicial tribunal to decide actual controversies between parties legitimately affected by specific facts and to render judgments which can be carried into effect. It has become settled judicial responsibility for courts to refrain from giving opinions on abstract propositions and to avoid the imposition by judgment of premature declarations or advice upon potential controversies.” *Fortner v. Thomas*, 22 Ohio St.2d 13, 14, 257 N.E.2d 371 (1970). And in *Tschantz v. Ferguson*, 57 Ohio St.3d 131, 133, 566 N.E.2d 655 (1991), the Ohio Supreme Court stated: “Ohio courts have long exercised judicial restraint in cases which are not actual controversies. *Fortner v. Thomas* (1970), 22 Ohio St.2d 13, 14, 51 O.O.2d 35, 257 N.E.2d 371, 372. No actual controversy exists where a case has been rendered moot by an outside event. ‘It is not the duty of the court to answer moot questions, and when, pending proceedings in error in this court, an event occurs without the fault of either party, which renders it impossible for the court to grant any relief, it will dismiss the petition in error.’ *Miner v. Witt* (1910), 82 Ohio St. 237, 92 N.E. 21, syllabus.”

{¶4} Here, because NOACA has chosen to voluntarily to disclose the information requested by Mr. Naymik in his complaint, there is no longer a controversy before the court. In accordance with the reasoning of *Tschantz*, the court therefore DISMISSES this action. Court costs are assessed against respondent NOACA. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. McGRATH
JUDGE