THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2024-0578, Laurie Ortolano v. City of Nashua & a., the court on February 10, 2026, issued the following order:

The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(3). The plaintiff, Laurie Ortolano, appeals an order of the Superior Court (Temple, J.) in this action seeking disclosure under the Right-to-Know Law, RSA ch. 91-A (2023 & Supp. 2025), of records held by the defendants, the City of Nashua (the City) and 201 Main Street Real Estate Corporation and 201 Main Street Financing Corporation (201 Corporations). The trial court found, in part, that the defendants violated RSA chapter 91-A, though not in every instance alleged by the plaintiff. The City filed a cross-appeal. We affirm.

The following facts either were found by the trial court or are supported by the record. The plaintiff presented the defendants with multiple requests seeking information about, as relevant to this appeal and cross-appeal: (1) the City's construction of barriers in downtown Nashua to create additional outdoor dining space during the coronavirus pandemic; and (2) the construction and financing of the Nashua Performing Arts Center (NPAC). Subsequently, the plaintiff filed petitions in superior court against the defendants pursuant to RSA 91-A:7 (2023), arguing that the defendants failed to adequately respond to her requests or otherwise failed to comply with the requirements of RSA chapter 91-A. The trial court consolidated her petitions and held a six-day bench trial, after which it found several violations of RSA chapter 91-A by the City and a single violation by the 201 Corporations.

At trial, the plaintiff argued that these violations were committed in bad faith and that the individuals responsible, namely City officials, should be assessed civil penalties under RSA 91-A:8, IV (2023). The trial court determined that it could not assess civil penalties against these individuals because the plaintiff did not name them as defendants in her petitions. Nonetheless, the trial court opined that certain City officials acted in bad faith, and that had these officials been named defendants, the trial court "would have seriously considered civil penalties." This appeal and cross-appeal followed.

In her appeal, the plaintiff alleges numerous errors by the trial court. We address only the issues that are properly before us. See State v. Blackmer, 149 N.H. 47, 49 (2003).

We first address the plaintiff's argument that the trial court erred when it consolidated her petitions. The superior court has discretionary power to order consolidation of cases. See Barnard v. Elmer, 128 N.H. 386, 388 (1986) (consolidation warranted where cases have "much common evidence" and complaining party not prejudiced by lack of notice); Assoc. Home Util's, Inc. v. Town of Bedford, 120 N.H. 812, 815 (1980) (stating that the superior court's discretionary power to consolidate cases is "limited only by the requirements of justice"); 5 Gordon J. MacDonald, New Hampshire Practice: Wiebusch on New Hampshire Civil Practice and Procedure § 41.06, at 41-3 (4th ed. 2014) (stating that a motion to consolidate is "addressed to the trial court's discretion" and "will generally be granted if the cases involve common issues of material fact or if they turn on the same principles of law, and the court can see that the trial of both cases will be simplified and shortened" by consolidation). Here, each petition shared the same plaintiff and a common defendant, the City. The trial court also found that the petitions arose from "the same circumstances surrounding the Nashua Performing Arts Center" and that they involved "common issues of law and fact under RSA 91-A" before concluding that judicial economy would be furthered by consolidating the petitions. These findings are supported by the record. We thus conclude that the trial court did not unsustainably exercise its discretion when it consolidated the petitions. See Barnard, 128 N.H. at 388.

We next consider the plaintiff's arguments that the trial court erred in making its discovery rulings. We review a trial court's rulings on the management of discovery under an unsustainable exercise of discretion standard. N.H. Ball Bearings v. Jackson, 158 N.H. 421, 429 (2009). The plaintiff first argues that the trial court erred when it limited discovery. The plaintiff represented to the trial court that she was opposed to discovery in this matter. In turn, the trial court issued an order permitting discovery only by court order. The trial court did not unsustainably exercise its discretion when it ruled that discovery would be limited in this matter. See Super. Ct. Admin. Order 2013-08 (considering Right-to-Know cases exempt from civil discovery rules).

The plaintiff next argues that the trial court erred when it denied the plaintiff's request to depose certain City officials and board members of the 201 Corporations. The plaintiff admitted that she was seeking to depose witnesses for information that was not required under the Right-to-Know Law. We conclude that the trial court did not unsustainably exercise its discretion when it denied her requests for depositions on this basis. See N.H. Ball Bearings, 158 N.H. at 429.

Next, the plaintiff argues that the trial court erred in finding that she failed to prove that the Capital Campaign Committee (CCC), an organization involved in fundraising for the NPAC project, was subject to the Right-to-Know Law. She contends that the CCC was a subcommittee of the Performing Arts

Center (PAC) Steering Committee, and therefore subject to the Right-to-Know Law. See RSA 91-A:1-a, VI(d) (2023) (defining "[p]ublic body"). When reviewing a trial court's decision rendered after a trial on the merits, we uphold the trial court's factual findings and rulings unless they lack evidentiary support or are legally erroneous. O'Malley v. Little, 170 N.H. 272, 275 (2017). Here, the president of the 201 Corporations — who also served on the CCC — and the City's Director of Economic Development both testified that the CCC was not a subcommittee of the PAC Steering Committee, nor affiliated with the City. Each testified, rather, that the CCC was a group of individuals committed to raising private funds for the NPAC project. The Director explained that the group came together after an independent fundraising consultant advised City officials that a private group should coordinate the raising of private funds for the project. Thus, the trial court's finding that the CCC was not subject to the Right-to-Know Law was supported by the record, and it accordingly did not err. See id.

The plaintiff's remaining arguments either do not warrant further discussion, see Vogel v. Vogel, 137 N.H. 321, 322 (1993); Sup. Ct. R. 25(8), are not sufficiently developed, or are waived, see Blackmer, 149 N.H. at 49 (providing that we do not address arguments that were not preserved, were not sufficiently developed for appellate review, or were not briefed).

We now turn to the City's cross-appeal. The City argues that the trial court erred when it found that an email from the chair of the Downtown Improvement Committee (DIC), which was not provided to the plaintiff, was responsive to her request for documents relating to "the Downtown Barrier Committee." It argues that the "Downtown Barrier Committee" — which was never established — and the DIC are not one and the same, and that the trial court mistakenly conflated the two in finding that the email from the chair of the DIC was responsive. We find no reversible error. See O'Malley, 170 N.H. at 275 ("We do not decide whether we would have ruled differently than the trial court, but rather, whether a reasonable person could have reached the same decision as the trial court based upon the same evidence." (quotation omitted)).

The record supports the trial court's finding that the DIC email was responsive to the plaintiff's request. The plaintiff requested from the City: (1) "[t]he names of the people 'stakeholders' selected to serve on the Downtown Barrier Committee" along with the "document or record with the names for this group and the name of the group"; (2) "[a]ny postings for meetings of the Downtown Barrier Committee"; and (3) "the record of the regulation, legislation, or statute that authorized the person authorized to select the committee as well as the process for approving the committee." The record shows that the plaintiff made this request after City officials represented to the plaintiff and others that a committee would be formed to make decisions regarding downtown barriers.

When the plaintiff's request is viewed in the context of the facts of this case, the trial court could have reasonably concluded that the request pertained to whichever committee was tasked with downtown barrier decisions, regardless of its official title. See id.; Colquhoun v. City of Nashua, 175 N.H. 474, 482 (2022) ("[W]hether a request reasonably describes the records sought is highly context-specific."). Accordingly, the trial court could have reasonably concluded that an email from the chair of the committee tasked with making downtown barrier decisions, which concerned a meeting where downtown barriers would be discussed, was responsive to the plaintiff's request. Thus, the trial court's finding that the DIC email was responsive to the plaintiff's request was supported by the evidence. See O'Malley, 170 N.H. at 275.

The City also argues that the trial court erred when it found that certain City employees acted in bad faith. Because the plaintiff did not name City officials in their individual capacities as defendants, the trial court concluded that it could not impose civil penalties against them as doing so would violate due process. The trial court nonetheless found "a strong basis to believe" that the City's Director of Economic Development and other City officials acted in bad faith, and further hypothesized that "[h]ad these individuals been named as parties, the Court would have seriously considered civil penalties." The City argues that this commentary was unnecessary given the trial court's ruling that it could not sanction nonparties to the case and thus was an unsustainable exercise of discretion and violated the due process rights of these individuals. We disagree.

The trial court's discussion of bad faith was relevant to its determination of which remedies under RSA 91-A:8 (2023), if any, were appropriate. In awarding the plaintiff reasonable costs incurred due to the City's failure to post meeting notices and minutes — an issue not contested on appeal — the trial court cited the City's "consistent failures to notice the [DIC] meetings" as well as its "evasive handling" of the plaintiff's requests, which the trial court concluded "further evince[d] the purposeful nature" of the City's violations. See RSA 91-A:8, I. These examples reference the conduct of the City officials whom the trial court found "a strong basis to believe" had acted in bad faith. The trial court again cited the City's purposeful violations of the Right-to-Know Law in exercising its discretion to issue an order enjoining future violations under RSA 91-A:8, V. See ATV Watch v. N.H. Dep't of Resources & Econ. Dev., 155 N.H. 434, 438 (2007) (stating that "the trial court retains the discretion" to enjoin future violations of the Right-to-Know Law under RSA 91-A:8). Because the statute permits the trial court to consider the conduct of the nonparty City officials in assessing what remedies, if any, were appropriate, we cannot say that the trial court's commentary violated due process or was otherwise "clearly

untenable or to an extent clearly unreasonable to the prejudice of the [City]." RAL Automotive Group, Inc. v. Edwards, 151 N.H. 497, 499 (2004).

Affirmed.

MACDONALD, C.J., and DONOVAN and COUNTWAY, JJ., concurred.

Timothy A. Gudas,
Clerk