

IN THE CIRCUIT COURT
FOR THE SIXTH JUDICIAL CIRCUIT
DOUGLAS COUNTY, TUSCOLA, ILLINOIS

JOHN KRAFT)
)
 Plaintiff)
)
 v.)
)
 ARCOLA TOWNSHIP) 2014-MR-____
)
)
 Defendant.)

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

Now comes Plaintiff, Mr. John Kraft, *pro se*, who prays this Court render a declaratory judgment and grant injunctive relief under the Freedom of Information Act ("FOIA"), 5 ILCS 140/1, *et seq.* For this Complaint states as follows:

1. Plaintiff - John Kraft. The plaintiff is an Illinois resident, and resides in the County of Edgar.

2. Defendant is the Township of Arcola, a public body as that term is defined in 5 ILCS 140/2(a).

3. On May 4, 2014, Plaintiff served a FOIA request on Defendant office of Arcola Township seeking copies of public records. A true and correct copy of the request is attached hereto and incorporated herein as Exhibit A.

4. On May 22, 2014, Plaintiff sent two emails to Defendant's FOIA Officer. The first email asking if they (Defendant) intended on responding to the May 4, 2014 request or if he needed to file another civil suit. Defendant responded stating that they sent the FOIA request to their attorney, Mr. Petty, and that they believed he sent a response. Plaintiff sent a second email informing Defendant that Mr. Petty did not respond and asked them, for the third time, to please respond to the FOIA request. A true and correct copy of the correspondence is attached hereto and incorporated herein as Exhibit B.

5. On May 23, 2014, Defendant responded informing Plaintiff that Mark Petty may have responded to your [Plaintiff's] attorney. Plaintiff then responded stating that He did not have an attorney for anything other than that one court case, and asked for a fourth time for Defendant to respond to the FOIA request. A true and correct copy of the correspondence is attached hereto and incorporated herein as Exhibit B.

6. As of June 2, 2014, Defendant has never responded to the May 4, 2014 Freedom Of Information Act request.

7. Section 11(a) of the Illinois Freedom Of Information Act [5 ILCS 140/11(a)] provides that: "*Any person denied access to inspect or copy any public record by a public body may file suit for injunctive or declaratory relief.*"

8. Pursuant to Section 11(h) of the Act [5 ILCS 140/11(h)] Plaintiff is requesting that these proceedings take precedence on the docket over all other causes, except those causes the court considers to be of greater importance, and be assigned a hearing and trial at the earliest practicable date and expedited in every way.

COUNT ONE

(Violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*)

9. Plaintiff reaffirms paragraphs 1 - 8 as though fully restated herein.

10. Plaintiff is being denied his legal right to inspect public records by Defendant failure to produce the records requested on May 4, 2014.

11. Plaintiff has no adequate remedy at law.

COUNT TWO

(Violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*)

12. Plaintiff reaffirms paragraphs 1 - 8 as though fully restated herein.

13. Defendant improperly denied the FOIA request by their failure properly respond in accordance with 5 ILCS 140/3 and 5 ILCS140/9.

14. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays this Court:

A. Declare Defendant to be in violation of the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*; and

B. Enjoin the Defendant from continuing to withhold access to any and all non-exempt public records responsive to Plaintiff's FOIA request and further enjoin Defendant to provide copies of any and all records responsive to Plaintiff's FOIA requests without further delay; and

C. Enjoin the Defendant to prepare, forthwith, an affidavit declaring that they will provide complete access to Plaintiff and further declaring that any and all non-exempt public records responsive to the request will be made available to Plaintiff; and

D. Order Defendant to prepare, forthwith, an affidavit identifying with specificity any and all public records responsive to Plaintiff's FOIA request that are claimed to be subject to legal exemption from disclosure and further identifying with specificity the reason(s) for any such claim of exemption; and

E. Declare Defendant acted willfully, intentionally, and in bad faith in the failure to respond to and to provide responsive documents to Plaintiff's FOIA request; and

F. Order Defendant to pay a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence, as outlined in 5 ILCS 140/11(j) as the Court finds just and equitable; and

G. Award Plaintiff reasonable fees, including attorney fees if Plaintiff should retain the services of an attorney, and all costs/fees incurred in litigating this suit as the Court finds just and equitable.

Dated: June 2, 2014

Respectfully submitted,

John Kraft, *pro se*
7060 Illinois Highway 1
Paris, Illinois 61944
Tel: (217) 808-2527
Plaintiff

Signed and sworn before me
This ____ day of June, 2014

Exhibit A

From: John Kraft [mailto:john@heirloomvideography.net]
Sent: Sunday, May 04, 2014 10:13 PM
To: 'arcolats@arcola-il.com'
Subject: FOIA Request (Arcola Twp) 5-5-2014

In accordance with the Illinois Freedom Of Information Act, I request the following:

1. Copy of checks written in Dec 2013 and Jan 2014.

This is not a commercial request.

Electronic copies requested.

Thanks,
John Kraft
7060 Illinois Highway 1
Paris, Illinois 61944

217-808-2527

Exhibit B

From: John Kraft
Date:23/05/2014 08:18 (GMT-06:00)
To: Arcola Township
Subject: Re: FOIA Request (Arcola Twp) 5-5-2014

I don't have an attorney for anything other than that one court case.

Please have him respond to me.

John Kraft

Sent from Samsung Mobile

----- Original message -----

From: Arcola Township
Date:23/05/2014 08:16 (GMT-06:00)
To: 'John Kraft'
Subject: RE: FOIA Request (Arcola Twp) 5-5-2014

Mr. Kraft – Mark Petty may have responded to your attorney, Have you checked with her?

From: John Kraft [<mailto:john@heirloomvideography.net>]
Sent: Thursday, May 22, 2014 3:49 PM
To: Arcola Township
Subject: RE: FOIA Request (Arcola Twp) 5-5-2014

He did not respond.

Please respond to the request.

John Kraft

Sent from cell phone

----- Original message -----

From: Arcola Township
Date:22/05/2014 15:32 (GMT-06:00)
To: 'John Kraft'
Subject: RE: FOIA Request (Arcola Twp) 5-5-2014

Mr. Kraft,

I sent the information you requested to Mr. Petty, I believe he sent a response.

From: John Kraft [<mailto:john@heirloomvideography.net>]
Sent: Thursday, May 22, 2014 10:34 AM
To: arcolats@arcola-il.com
Cc: 'John Kraft'
Subject: RE: FOIA Request (Arcola Twp) 5-5-2014

Are you going to respond to this one from May 4, or do I need to file another civil suit?

You tell me, I think I have been waiting long enough.

Thanks,
John Kraft
7060 Illinois Highway 1
Paris, Illinois 61944

217-808-2527

From: John Kraft [<mailto:john@heirloomvideography.net>]
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v.

ARCOLA TOWNSHIP

NO. 2014-MR-

SUMMONS

To the defendant: Arcola Township (Arcola Township Clerk, ATTN: William Coombe) 108 East Main Street, Arcola, Illinois 61910

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance,
in the office of the clerk of this court Douglas County Courthouse, 401 South Center Street, Tuscola, Illinois 61953,
(Insert name of building, room number, address, including city)

Illinois, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other persons to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than 30 days after its date.

WITNESS _____, 20 ____.

(Seal of court)

Clerk of court

Associate Circuit Clerk-Deputy

Name John Kraft
Attorney for pro se
Address 7060 Illinois Highway 1
City Paris, Illinois 61944
Telephone 217-808-2527

Date of service: _____, 20 ____.
(To be inserted by officer on copy left with defendant or other person)

SHERIFF'S FEES

Service and return \$ _____
Miles _____
Total \$ _____

Sheriff of _____ County

I certify that I served this summons on defendants as follows:

(a) – (Individual defendants–personal):

By leaving a copy and a copy of the complaint with each individual defendant personally, as follows:

Name of defendant

Date of service

(b) – (Individual defendants–abode):

By leaving a copy and a copy of the complaint at the usual place of abode of each individual defendant with a person of the family, or a person residing there, of the age of 13 years or upwards, informing that person of the contents of the summons, and also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid addressed to each individual defendant at his or her usual place of abode, as follows:

Name of defendant

Person with whom left

Date of service

Date of mailing

(c) – (Corporation defendants):

By leaving a copy and a copy of the complaint with the registered agent, officer or agent of each defendant corporation, as follows:

Defendant corporation

Registered agent, officer or agent

Date of service

(d) – (Other service):

_____, Sheriff of _____ County

By _____, Deputy