

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS**

KIRK ALLEN, )  
)  
Plaintiff, ) 18CH1512  
)  
v. )  
)  
WESLEY TOWNSHIP, )  
)  
Defendant. )

**COMPLAINT**

NOW COMES Plaintiff, KIRK ALLEN by his undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant WESLEY TOWNSHIP refusal, in willful and intentional violation of the Illinois Freedom of Information Act, to properly respond to ALLEN's Freedom of Information Act ("FOIA") request. In support of his Complaint, ALLEN states as follows:

**INTRODUCTION**

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of

**Initial case management set for  
1/7/2019 at: 9:00 a.m.**

government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/3.

4. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.”

#### **PARTIES**

5. Plaintiff KIRK ALLEN is the FOIA requester in this case, and,

6. Defendant WESLEY TOWNSHIP is a public body located in Will County.

#### **AUGUST 2, 2018 FOIA REQUEST**

7. On August 2, 2018, ALLEN submitted requests for various records. Exhibit A.

8. On August 2, 2018, WESLEY TOWNSHIP responded to ALLEN’s FOIA request informing him that the clerk was out of town for the next few weeks and that she would look into it when she returned. Exhibit B.

9. On August 6, 2018, WESLEY TOWNSHIP requested a 10 day extension to the FOIA request. Exhibit C.

10. On August 6, 2018, ALLEN responded to WESLEY TOWNSHIP and advised that he did not agree to a 10 day extension. Exhibit D.

11. On August 16, 2018, Allen followed up with WESLEY TOWNSHIP informing it that the FOIA request was past due and the records should be provided. Exhibit E.

12. While ALLEN did not agree to production being delayed a “few weeks” or the 10

day extension, WESLEY TOWNSHIP failed to produce any records or even send ALLEN a follow-up communication of any kind long after these extended “deadlines.”

13. As of the date of the filing of this Complaint, nearly two months after the filing of the FOIA request, WESLEY TOWNSHIP has not responded further or produced any records.

**COUNT I – AUGUST 2, 2018 VIOLATION OF FOIA**

14. The above paragraphs are incorporated by reference.

15. WESLEY TOWNSHIP is a public body under FOIA.

16. The records sought in ALLEN’s FOIA request are non-exempt public records of WESLEY TOWNSHIP.

17. WESLEY TOWNSHIP violated FOIA by failing to produce the requested records.

**COUNT II – AUGUST 2, 2018, WILLFUL VIOLATION OF FOIA**

18. The above paragraphs are incorporated by reference.

19. WESLEY TOWNSHIP is a public body under FOIA.

20. The records sought in ALLEN’s FOIA request are non-exempt public records of WESLEY TOWNSHIP.

21. WESLEY TOWNSHIP willfully and intentionally violated FOIA by failing to produce the requested records.

**WHEREFORE**, ALLEN asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court’s docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;

- ii. declare that WESLEY TOWNSHIP has violated FOIA;
- iii. order WESLEY TOWNSHIP to produce the requested records;
- iv. enjoin WESLEY TOWNSHIP from withholding non-exempt public records under FOIA;
- v. order WESLEY TOWNSHIP to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees if Plaintiff hires an attorney for this cause, and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

*/s/ Joshua Hart Burday*

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Attorneys for Plaintiff  
KIRK ALLEN

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311 N. Aberdeen, Third Floor  
Chicago, IL 60607  
312-243-5900  
foia@loevy.com  
Atty. No. 41295

**From:** Kirk Allen

**Sent:** Thursday, August 2, 2018 8:39 AM

**To:** wesleytwp2017@outlook.com; wesleysuper2017@outlook.com

**Subject:** FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of all receipts provided for park fees of any kind in the last 12 months.
2. A copy of all bank deposit receipts for park fees in the last 12 months.
3. A copy of any statute or other document authorizing the Township to charge fees for use of the Park for any reason.
4. A copy of the most recent budget approved by the Board in 2018
5. A copy of the last TWO agreements/contracts entered into with Township Officials of Illinois Risk Management Association (TOIRMA)
6. A copy of the BOND for the Township Supervisor.

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the timeframe for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

**Exhibit A**

Thanks,  
Kirk Allen  
PO Box 593  
Kansas, IL 61933

**From:** [Wesley twp2017](#)  
**To:** [Kirk Allen](#)  
**Subject:** Re: FOIA Request  
**Date:** Thursday, August 2, 2018 12:30:47 PM

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Mr. Allen,

I am out of town for the next few weeks. I will look into it as soon as I get home.

Sarah Norton

Wesley Township Clerk

**From:** [Wesley Super2017](#)  
**To:** [Kirk Allen](#)  
**Subject:** Re: FOIA Request  
**Date:** Monday, August 6, 2018 11:54:36 AM

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Mr. Allen,  
Thank you for your request.

I respectfully request a ten day extension in responding to this FOIA request to find the records to address the requests.

Sincerely,  
JoAnn Quigley  
Wesley Township Supervisor

Sent from [Outlook](#)

**From:** Kirk Allen  
**Sent:** Monday, August 6, 2018 12:34 PM  
**To:** 'wesleysuper2017@outlook.com'  
**Subject:** RE: FOIA Request

I do not agree to a ten day extension.

Comply with the obligations of FOIA as outlined by law or be prepared to deal with this matter in the circuit court.

Kirk Allen

**From:** Kirk Allen  
**Sent:** Thursday, August 16, 2018 1:14 PM  
**To:** Wesley Super2017 <wesleysuper2017@outlook.com>  
**Subject:** RE: FOIA Request

My request is well past due.

Provide the records immediately as to avoid further litigation.

Kirk Allen