

STATE OF ILLINOIS
IN THE FIFTH JUDICIAL CIRCUIT
PARIS, EDGAR COUNTY, ILLINOIS

FILED

OCT - 3 2012

Karen D. Hallock
Circuit Clerk, 5th Judicial Circuit Edgar County

JOHN KRAFT

Plaintiff,

vs.

CLARK-EDGAR RURAL
WATER DISTRICT (CERWD)

and

KEVIN CONOVER, acting in his
official capacity as FOIA Officer of
CERWD

Defendants.

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Case No: 12 MR 44

**COMPLAINT FOR DECLATORY
JUDGEMENT AND INJUNCTIVE RELIEF**

NOW COMES the Plaintiff, John Kraft, who prays that 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 a resident of Illinois, and contributor to the Edgar County Watchdogs, a local watchdog group advocating open, honest, and accountable local government by obtaining public records under state and federal “open records” laws, analyzing those records, and disseminating them to the public, among other means.

2. Defendants are the Clark-Edgar Rural Water District (“CERWD”), a “public body” as that term is defined by 5 ILCS § 140/2(a), and Kevin Conover, in his official capacity as the FOIA Officer of the CERWD.

3. On or about September 24, 2012, Plaintiff served a FOIA request on Defendant Office of the CERWD seeking access to the following public records:

1. Copy of the FOIA request sent to the CERWD by Kirk Allen on Sep 17, 2012 asking for:
 - a. Copy of Clark-Edgar Advertising Bids published in the Decatur Herald paper in March of 2008.
 - b. Copy of E-mail sent to Roger Eddy on or about 5/8/2008. Email was to Roger for the overall Clark-Edgar map and the CERWD paid \$52.50 for this email that according to the invoice from Francis Associates was sent by T. Turner.
2. Copy of the responsive document(s) to that request.

A true and correct copy of the request is attached hereto and incorporated herein as Exhibit A.

4. On or about September 26, 2012, Defendant Office of CERWD responded with a document not requested and failed to provide requested documents. Pursuant to 5 ILCS § 140/3(d), such failure to provide requested public record(s) is considered a denial of the request. A true and correct copy of the response is attached hereto and incorporated herein as Exhibit B.

5. On or about September 26, 2012, Plaintiff responded to the CERWD, stating he considered their response a denial and would take actions necessary to have his FOIA

request fulfilled. A true and correct copy of the response is attached hereto and incorporated herein as Exhibit C.

6. As of October 3, 2012, Defendants have failed to provide Plaintiff with any records responsive to his September 24, 2012 request.

COUNT ONE

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

7. Plaintiff reaffirms paragraphs 1-6 as though fully restated herein.

8. Plaintiff has been irreparably harmed by Defendants' failure to produce the requested records, as Plaintiff is being denied its legal right to inspect public records.

9. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays that the Court:

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

B. Enjoin Defendants from continuing to withhold access to any and all non-exempt public records responsive to Plaintiff's September 24, 2012 FOIA request and further enjoin Defendants to produce any and all records to Plaintiff without further delay;

C. Enjoin the Defendants to prepare, forthwith, an affidavit declaring that they have fully and completely complied with Plaintiff's September 24, 2012 FOIA request and further declaring that any and all non-exempt public records responsive to the request have been produced to Plaintiff;

D. Order the Defendants to prepare, forthwith, an affidavit identifying with specificity any and all public records responsive to Plaintiff's September 24, 2012 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.

E. Award Plaintiff reasonable attorney's fees, should he required the services of an attorney, and costs; and

F. Order such other and further relief, as outlined in 5 ILCS § 140/11(i) and 5 ILCS § 140/11(j), as the Court finds just and equitable.

Dated: October 3, 2012

Respectfully submitted,



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



Signed & sworn
Before me this 3rd
day of October, 2012
Karen D. Halloran



EXHIBIT A

Exhibit "A"

John Kraft

From: John Kraft [john@heirloomvideography.net]

Sent: Monday, September 24, 2012 4:10 PM

To: 'Clark-Edgar Rural water District'

Subject: FOIA Request - 9-24-2012

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

1. Copy of the FOIA request sent to the CERWD by Kirk Allen on Sep 17, 2012 asking for:
 - a. Copy of Clark-Edgar Advertising Bids published in the Decatur Herald paper in March of 2008
 - b. Copy of E-mail sent to Roger Eddy on or about 5/8/2008. Email was to Roger for the overall Clark-Edgar map and the CERWD paid \$52.50 for this email that according to the invoice from Francis Associates was sent by T. Turner.
2. Copy of the responsive document(s) to that request.

Electronic copies are preferred, and required, since you do have this information in electronic form.

Please note that according to the Illinois FOIA, you are required to keep a copy of all FOIA requests and responsive documents to those FOIA requests – and your copies are Public Record.

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

217-808-2527

10/3/2012

EXHIBIT B

John Kraft

From: Clark-Edgar Rural water District [clarkedgarwater@yahoo.com]
Sent: Wednesday, September 26, 2012 3:27 PM
To: John Kraft
Cc: Tom Jones; Rich Kash; Meehling Bernardoni
Subject: Re: FOIA Request - 9-24-2012
Attachments: FOIA - Sept 17,2012 Request Francis Invoice.pdf

In accordance with the Illinois Freedom Of Information Act, attached is the invoice sent to Kirk Allen today per his 9/17/12 FOIA request.

Kevin Conover, FOIA Officer
Clark-Edgar Rural Water District

From: John Kraft <john@heirloomvideography.net>
To: 'Clark-Edgar Rural water District' <clarkedgarwater@yahoo.com>
Sent: Monday, September 24, 2012 4:09 PM
Subject: FOIA Request - 9-24-2012

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

1. Copy of the FOIA request sent to the CERWD by Kirk Allen on Sep 17, 2012 asking for:
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Thanks,
John Kraft
7060 Illinois Highway 1
Paris, Illinois 61944

217-808-2527

10/3/2012

Exhibit "B"

FRANCIS ASSOCIATES
CONSULTING ENGINEERS
LAND SURVEYORS

330 NORTH CENTRAL AVENUE
PARIS, ILLINOIS 61944
PH. (217) 465-5306
FAX (217) 465-5307

TO: Clark-Edgar Rural Water District
475 IL Highway 1
Marshall, IL 62441

DATE: September 21, 2012

INVOICE NO:

INVOICE OR STATEMENT FOR SERVICES OR SUPPLIES AS LISTED BELOW

FOIA Request – September 21, 2012

Bob Colvin	0.5	90.00	\$ 45.00
Troy Turner	0.5	62.00	\$ 31.00
		TOTAL	\$ 76.00
		TOTAL AMOUNT DUE	\$ 76.00

EXHIBIT C

John Kraft

From: John Kraft [john@heirloomvideography.net]
Sent: Wednesday, September 26, 2012 3:49 PM
To: 'Clark-Edgar Rural water District'
Cc: 'Tom Jones'; 'Rich Kash'; 'Meehling Bernardoni'
Subject: RE: FOIA Request - 9-24-2012

Mr. Conover,

I consider this response to my FOIA request a DENIAL of my request.

A copy of the invoice for the \$76 is not a responsive document(s) to my FOIA.

The responsive documents are copies of the items he requested copies of – that you now have in your possession in electronic format.

If you continue down this road of attempting to limit PUBLIC information and deny this request, I shall consider the denial as the ECRWD's willful and intentional failing to comply with the Illinois Freedom Of Information Act and will take actions necessary to have my FOIA request fulfilled.

Please read, or have your new FOIA attorney read, the Illinois Freedom Of Information Act prior to denying this again.

Feel free to contact me via email or phone if you have any questions.

Thanks,
 John Kraft
 7060 IL HWY 1
 Paris, IL. 61944

217-808-2527

From: Clark-Edgar Rural water District [mailto:clarkedgarwater@yahoo.com]
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To: John Kraft
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Subject: Re: FOIA Request - 9-24-2012

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10/3/2012

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