

IN THE CIRCUIT COURT
FOR THE FIFTH JUDICIAL CIRCUIT
EDGAR COUNTY, PARIS, ILLINOIS

JOHN KRAFT)
)
Plaintiff,)
)
vs)
)
CLARK-EDGAR RURAL)
WATER DISTRICT (CERWD))
)
and)
)
KEVIN CONOVER, acting in his)
Official capacity as FOIA Officer of)
CERWD)
)
Defendants.)

RESPONSE TO MOTION TO DISMISS

Now comes the Plaintiff, John Kraft, *pro se*, moves the court to deny Defendant's Motion To Dismiss the Plaintiff's Complaint for Declaratory Judgment and Injunctive Relief for the reason that motion is substantially insignificant in law.

Said Motion To Dismiss was based on the assumption that the CERWD can request reimbursement for costs incurred to respond to an Illinois Freedom Of Information Act (5 ILCS Section 140/1 et seq.(FOIA)) request.

Section 6(b) of FOIA only authorizes the CERWD to charge fees in certain limited situations (emphasis mine):

(b) Except when a fee is otherwise fixed by statute, each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page. If a public body provides copies in color or in a size other than letter or legal, the public body may not charge more than its actual cost for reproducing the records. In calculating its actual cost for reproducing records or for the use of the equipment of the public body to reproduce records, a public body shall not include the costs of any search for and review of the records or other

personnel costs associated with reproducing the records, except for commercial requests as provided in subsection (f) of this Section. Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them. The cost for certifying a record shall not exceed \$1.

In reading this section, the statute is clear that a public body may not charge any fees for black and white copies consisting of 50 pages or less. They also cannot charge for any costs associated with the search for and review of the records or other personnel costs – except for commercial requests.

The Plaintiff's denied FOIA request did not consist of more than 50 pages, was not a request for color copies, was not a request for other than letter or legal sized copies, and was not a commercial request as defined in FOIA (5 ILCS 140/2(c-10)).

WHEREFORE Plaintiff prays that the court will dismiss the Defendant's Motion To Dismiss as substantially insignificant at law.

By: _____
John Kraft

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