

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

FILED

OCT 28 2013

JOHN KRAFT

Plaintiff

vs

The COUNTY OF EDGAR

and

Jimmy Wells, acting in his Official capacity)
as FOIA Officer of the Edgar County)
Airport)

Defendants

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

Case No:

13-MR-72

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

NOW COMES THE PLAINTIFF, Mr. John Kraft, *pro se*, and 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, is an Illinois resident, and resides in the County of Edgar.
2. Defendants are the County of Edgar, a public body as that term is defined by 5 ILCS 140/2(a), and Jimmy Wells in his official capacity as FOIA Officer of the Edgar County Airport.
3. On August 21, 2013, Plaintiff served a FOIA request on Defendant office of the Edgar County Airport seeking copies of public records that included, among others:

1. Copy of the Illinois Statute that the Edgar County Airport is currently operating under.
2. Name of the person that was recently "in arrears" on t-hangar rent.
3. Copy of all rent receipts for the past 2 months
4. Copy of the Illinois Statute under which the Edgar County Board is contemplating borrowing money under, in relation to the Edgar County Airport proposed projects.

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

4. On September 4, 2013, Defendant Jimmy Wells responded by e-mail to the FOIA request and advised of the status of the request, then stated that "as per State's Attorney's office we are not required to respond to items 1 and 4". A true and correct copy of the email is attached hereto and incorporated herein as Exhibit B.

5. On September 7, 2013, Plaintiff submitted a FOIA Request For Review to the Illinois Attorney General's Public Access Counselor, in accordance with 5 ILCS 140/9.5, alleging a FOIA denial. A true and correct copy of the email is attached hereto and incorporated herein as Exhibit C.

6. On October 2, 2013, Plaintiff received a letter from the Attorney General's office, dated October 1, 2013, which also included the letter, dated September 26, 2013, in which Jimmy Wells responded to the Attorney General in reference to my request for review. A true and correct copy of the email is attached hereto and incorporated herein as Exhibit D.

7. As of October 28, 2013, Plaintiff is not in receipt of responses to items numbered 1 and 4 of the original FOIA Request.

8. Section 9.5 (g) of the FOIA [5 ILCS 140/2(c)] states:

“If the requester files suit under Section 11 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the public body.”

9. Plaintiff has properly notified the Attorney General’s Public Access Counselor that he has filed suit under Section 11. A true and correct copy of the notification is attached hereto and incorporated herein as Exhibit E.

10. Section 11(a) of the 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.”

11. Pursuant to Section 11(h) of the Act [5 ILCS 140/11(h)], Plaintiff requests 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.*)

12. Plaintiff reaffirms paragraphs 1-11 as though fully restated herein.

13. Plaintiff is being denied his legal right to inspect public records by Defendant failure to produce the records requested on August 21, 2013. See Exhibit A.

14. Plaintiff has no adequate remedy at law.

COUNT TWO

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

15. Plaintiff reaffirms paragraphs 1-11 as though fully restated herein.

16. Defendant improperly denied the request in Count One of this Complaint by their failure to follow 5 ILCS 140/3(d) and 5 ILCS140/9 *et seq.*

17. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays this Court:

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

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

C. Enjoin the Defendants 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 Defendants to prepare, forthwith, an affidavit identifying with specificity any and all public records responsive to Plaintiff's FOIA requests 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

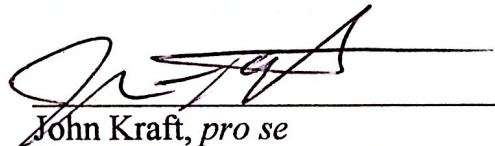
E. Declare Defendants acted willfully, intentionally, and in bad faith in failing to properly deny and in failing to provide responsive documents to Plaintiff's FOIA requests; and

F. Order Defendants 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, and all costs/fees incurred in filing this suit as the Court finds just and equitable.

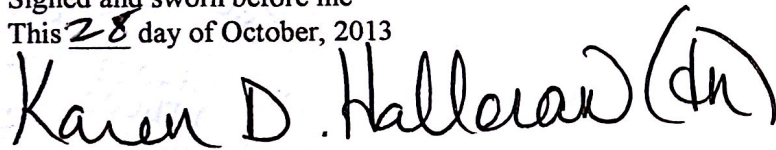
Dated: October 28, 2013

Respectfully submitted,



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

Signed and sworn before me
This 28 day of October, 2013



CERTIFICATE OF SERVICE

John Kraft, Plaintiff, hereby certifies that they caused a copy of Plaintiff's Complaint to be served upon the following parties via hand delivery or by U.S. Mail, with proper postage prepaid on October 28, 2013:


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

Edgar County Clerk
115 W. Court Street
Paris, Illinois 61944

Jimmy Wells
15551 Airport Road
Paris, Illinois 61944

Exhibit A

Page 1 of 1

John Kraft

From: John Kraft [john@heirloomvideography.net]
Sent: Wednesday, August 21, 2013 6:39 AM
To: 'jwalls@comwares.net'
Cc: 'Edgar County Airport'; 'August Griffin'
Subject: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

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

1. Copy of the Illinois Statute that the Edgar County Airport is currently operating under.
2. Name of the person that was recently "in arrears" on t-hanger rent.
3. Copy of all rent receipts for the past 2 months
4. Copy of the Illinois Statute under which the Edgar County Board is contemplating borrowing money under, in relation to the Edgar County Airport proposed projects.

Please respond appropriately and according to the FOI Act for all items requested.

This is not a commercial request.

Electronic copies preferred.

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

217-808-2527

10/28/2013

John Kraft

From: Jimmy Wells [jwells@comwares.net]
Sent: Wednesday, September 04, 2013 10:45 AM
To: 'John Kraft'
Subject: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

September 4, 2013

Mr. Kraft,

I am mailing you a copy of the rent received for July and August of 2013, to cover items 2 & 3 of your request.

Item number 1 is on display on the north wall at the airport lounge and is signed by Susan R Shea Director of Aeronautics, you are welcome to come out and photo this document.

As per States Attorney's office we are not required to respond to items 1 and 4.

Successfully Yours,

Jimmy Wells
Airport Manager
15551 Airport Rd.
Paris, IL. 61944
Fax 800-647-8043
jwells@comwares.net

From: John Kraft [mailto:john@helloomvideography.net]
Sent: Wednesday, September 04, 2013 8:07 AM
To: jwells@comwares.net; 'Edgar County Airport'
Subject: FW: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

Mr. Wells,

Please provide the requested public records.

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

217-808-2527

From: John Kraft [mailto:john@helloomvideography.net]
Sent: Wednesday, August 21, 2013 6:39 AM
To: 'jwells@comwares.net'
Cc: 'Edgar County Airport'; 'August Griffin'

Subject: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

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

1. Copy of the Illinois Statute that the Edgar County Airport is currently operating under.
2. Name of the person that was recently "in arrears" on t-hangar rent.
3. Copy of all rent receipts for the past 2 months
4. Copy of the Illinois Statute under which the Edgar County Board is contemplating borrowing money under, in relation to the Edgar County Airport proposed projects.

Please respond appropriately and according to the FOI Act for all items requested.

This is not a commercial request.

Electronic copies preferred.

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

217-808-2527

Exhibit / C

John Kraft

From: John Kraft [john@heirloomvideography.net]
Sent: Saturday, September 07, 2013 10:10 PM
To: 'PublicAccess@atg.state.il.us'; 'Access, Public'
Subject: FOIA Request for Review (Edgar County Airport / Edgar County Board)
 Office of the Attorney General,

I hereby submit this request for the Public Access Counselor to review a FOIA Request Denial.

Date FOIA Request sent to Public Body: **August 21, 2013**

Name of Public Body: **Edgar County Airport / Edgar County Board**

Emails of the original FOIA request and public body's response are below.

Summary of facts:

On August 21, 2013, I submitted a FOIA request to the Edgar County Airport, and CC'd the Edgar County Clerk, requesting the following:

1. Copy of the Illinois Statute that the Edgar County Airport is currently operating under.
2. Name of the person that was recently "in arrears" on t-hangar rent.
3. Copy of all rent receipts for the past 2 months
4. Copy of the Illinois Statute under which the Edgar County Board is contemplating borrowing money under, in relation to the Edgar County Airport proposed projects.

On September 4, 2013, the Airport Manager, Mr. Jimmy Wells, responded with the following statement:

"I am mailing you a copy of the rent received for July and August of 2013, to cover items 2 & 3 of your request.

Item number 1 is on display on the north wall at the airport lounge and is signed by Susan R Shea Director of Aeronautics, you are welcome to come out and photo this document.

As per States Attorney's office we are not required to respond to Items 1 and 4."

I believe this to be a partial denial of my FOIA request for the following reason(s):

Improper denial for item numbers 1 and 4

- I did not ask if I could go in and take a picture of item number 1, I asked for a copy of it, and I doubt if the Statute that I requested a copy of was autographed by Dr. Shea, and I doubt a copy of the Statute is on display on the North wall – but even if it is, I asked for a copy of it, and did not receive a copy
- request was not properly denied in accordance with 5 ILCS 140/9
- the public body did not claim any exemption and did not provide the records
- the public body did not provide a detailed factual basis for the application of any exemption claimed
- the public body did not inform me of my right to review by the PAC
- the public body did not provide the address and phone number for the PAC
- the public body did not inform me of my right to judicial review under Section 11 of the Act.

You will also find that the public body did not comply with the mandated time-frame for responding to the

10/28/2013

FOIA, but there were extenuating circumstances that prohibited their timely response and I do not consider their delay in responding as part of the alleged denial.

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

217-808-2527

From: Jimmy Wells [mailto:jwells@comwares.net]
Sent: Wednesday, September 04, 2013 10:45 AM
To: 'John Kraft'
Subject: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

September 4, 2013

Mr. Kraft,

I am mailing you a copy of the rent received for July and August of 2013, to cover items 2 & 3 of your request. Item number 1 is on display on the north wall at the airport lounge and is signed by Susan R Shea Director of Aeronautics, you are welcome to come out and photo this document. As per States Attorney's office we are not required to respond to items 1 and 4.

Successfully Yours,

Jimmy Wells
Airport Manager
15551 Airport Rd.
Paris, IL. 61944
Fax 800-647-8043
jwells@comwares.net

From: John Kraft [mailto:john@heirloomvideography.net]
Sent: Wednesday, September 04, 2013 8:07 AM
To: jwells@comwares.net; 'Edgar County Airport'
Subject: FW: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

Mr. Wells,

Please provide the requested public records.

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

217-808-2527

From: John Kraft [mailto:john@heirloomvideography.net]
Sent: Wednesday, August 21, 2013 6:39 AM
To: 'jwells@comwares.net'
Cc: 'Edgar County Airport'; 'August Griffin'
Subject: FOIA Request (Edgar County Airport / Edgar County Board) - 8-21-2013

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

4. Copy of the Illinois Statute that the Edgar County Airport is currently operating under.
5. Name of the person that was recently "in arrears" on t-hangar rent.
6. Copy of all rent receipts for the past 2 months
4. Copy of the Illinois Statute under which the Edgar County Board is contemplating borrowing money under, in relation to the Edgar County Airport proposed projects.

Please respond appropriately and according to the FOI Act for all items requested.

This is not a commercial request.

Electronic copies preferred.

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

217-808-2527

Exhibit D



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 1, 2013

Mr. John Kraft
7060 Illinois Highway 1
Paris, Illinois 61914

RE: FOIA Request for Review – 2013 PAC 25967

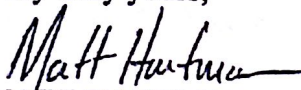
Dear Mr. Kraft:

The Office of the Attorney General, Public Access Bureau, has received the enclosed response to your Request for Review from Edgar County Airport (Airport).

You may, but are not required to, reply in writing to the public body's response. If you choose to reply, you must submit your reply to this office within 7 working days of your receipt of this letter. 5 ILCS 140/9.5(d) (West 2012). Please send a copy of your reply to the Airport as well.

If you have questions about this matter, please contact me at the Springfield address below.

Very truly yours,


MATT HARTMAN
Assistant Attorney General
Public Access Bureau

Enclosure

cc: Mr. Jimmy Wells (will receive letter only)
Airport Manager
Edgar County Airport
15551 Airport Road
Paris, Illinois 61944

Edgar County Airport
15551 Airport Rd.
Paris, IL 61944
Cell 217-251-2304
Fax 800-647-8043

RECEIVED
ATTORNEY GENERAL

SEP 30 2013

FOIA/OMA

25967
MH

September 26, 2013

Matt Hartman
Assistant Attorney General
Public Access Bureau
500 S 2nd St.
Springfield, IL 62706

Mr. Matt Hartman,

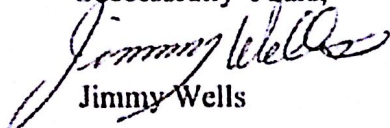
In response to the information you requested for the Review of FOIA 2013 Pac 25967 submitted by Mr. John Kraft 7060 Illinois Highway 1 Paris, ILL 61944.

Mr. Kraft asks for copy of the Illinois Statute that the Edgar County Airport is currently operation under.

After a learning process for me and some extensive resurch I have included a copy of Air Transportation (620 ILCS) General County Airport and Landing Field Act. I have included this document which we operate under, that covers Statutes (620 ILCS 40/0.01 through (620 ILCS 40/15) it aeries that both of Mr. Kraft request are answered in these Statutes.

Please contact me if you have any questions or would like to discuss this matter.

Successfully Yours,



Jimmy Wells

Airport Manager
Edgar County Airport
15551 Airport Rd.
Paris, IL. 61944
Cell 217-251-2304
Fax 800-647-8043

Exhibit E

Page 1 of 1

John Kraft

From: John Kraft [john@heirloomvideography.net]
Sent: Monday, October 28, 2013 12:26 PM
To: 'Hartman, Matthew'; 'PublicAccess@atg.state.il.us'; 'Access, Public'
Subject: 2013 PAC 25967 (Edgar County Airport)
Illinois Attorney General Public Access Counselor,

I will file a FOIA suit, today, October 28, 2013, in the circuit court of Edgar County with respect to the records that are subject to the Request for Review 2013 PAC 25967, Edgar County Airport, and in accordance with 5 ILCS 140/9.5(g), please consider this your notification.

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

217-808-2527