

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

JOHN KRAFT

Plaintiff

v.

ARCOLA TOWNSHIP

Defendant.

COPY

2014-MR-34

FILED

AUG - 7 2014

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

Julie Mills
CLERK OF THE CIRCUIT COURT
DOUGLAS COUNTY, ILLINOIS

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 June 1, 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 June 12, 2014, Plaintiff sent an email to Defendant asking if they (Defendant) planned on responding to the June 1, 2014 FOIA request. A true and correct copy of the email is attached hereto and incorporated herein as Exhibit B.

5. On June 13, 2014, Plaintiff sent an email to Defendant asking if they (Defendant) planned on responding to the June 1, 2014 FOIA request. A true and correct copy of the email is attached hereto and incorporated herein as Exhibit C.

6. On June 13, 2014, Defendant responded informing Plaintiff that they received the FOIA request on June 2nd and that they copied the requested documents and took them to Mr. Petty. A true and correct copy of the correspondence is attached hereto and incorporated herein as Exhibit D.

7. Defendant's response on June 13, 2014 indicated that Mr. Petty is the person who had access to and was responsible for dissemination of the requested public records.

8. As of August 7, 2014, Defendant has never responded to the June 1, 2014 Freedom Of Information Act request.

9. 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."*

10. 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.)

11. Plaintiff reaffirms paragraphs 1 - 10 as though fully restated herein.

12. Plaintiff is being denied his legal right to inspect public records by Defendant failure to produce the records requested on June 1, 2014.

13. Plaintiff has no adequate remedy at law.

COUNT TWO

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

14. Plaintiff reaffirms paragraphs 1 - 10 as though fully restated herein.

15. Defendant improperly denied the FOIA request by their failure properly respond to the June 1, 2014 FOIA request in accordance with 5 ILCS 140/3 and 5 ILCS140/9.

16. Plaintiff has no adequate remedy at law.

COUNT THREE

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

17. Plaintiff reaffirms paragraphs 1 - 10 as though fully restated herein.

18. Defendant violated 5 ILCS 140/3 (a) by improperly granting, by contract or otherwise, the exclusive right to access and disseminate public records to Mr. Mark Petty, a person or entity that is neither an employee nor an official of the Township of Arcola.

19. 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 from granting to any person or entity, whether by contract, license, or otherwise, the

exclusive right to access and disseminate any public record as defined in this Act; and

D. 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

E. 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

F. 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

G. 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

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

Dated: August 7, 2014

Respectfully submitted,


John Kraft

Signed and sworn before me
This 7 day of August, 2014

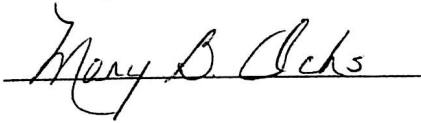




Exhibit A

From: John Kraft
Sent: Sunday, June 01, 2014 9:16 PM
To: 'arcolats@arcola-il.com'
Subject: FOIA Request (Arcola Township) 6-1-2014

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

1. Copy of all bills, claims, or anything else presented for payment at the May 2014 meeting
2. Copy of the meeting minutes for the April 2014 meeting

This is not a commercial request.

Electronic records are requested.

Thanks,
John Kraft



Exhibit B

From: John Kraft
Sent: Thursday, June 12, 2014 10:36 PM
To: 'arcolats@arcola-il.com'
Cc: John Kraft
Subject: RE: FOIA Request (Arcola Township) 6-1-2014

Do you plan on answering this FOIA request?

Thanks,
John Kraft
[REDACTED]

From: John Kraft
Sent: Sunday, June 01, 2014 9:16 PM
To: 'arcolats@arcola-il.com'
Subject: FOIA Request (Arcola Township) 6-1-2014

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

1. Copy of all bills, claims, or anything else presented for payment at the May 2014 meeting
2. Copy of the meeting minutes for the April 2014 meeting

This is not a commercial request.

Electronic records are requested.

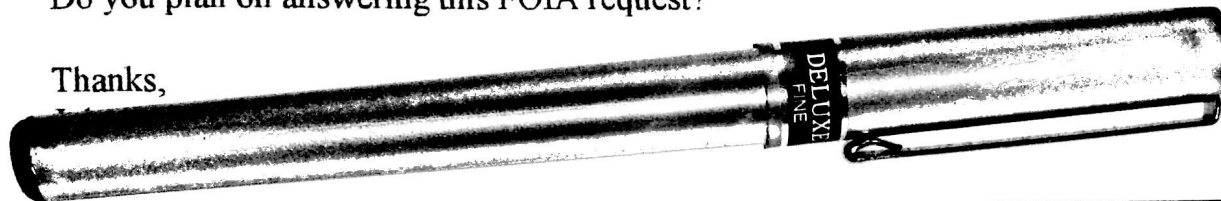
Thanks,
John Kraft

f gh

From: John Kraft [mailto:john.kraft@arcola-il.com]
Sent: Friday, June 13, 2014 10:37 AM
To: 'arcolats@arcola-il.com.readnotify.com'
Cc: 'kirk@illinoisleaks.com'
Subject: FOIA Request (Arcola Township) 6-1-2014

Do you plan on answering this FOIA request?

Thanks,



From: John Kraft [mailto:john.kraft@arcola-il.com]
Sent: Thursday, June 12, 2014 10:36 PM
To: arcolats@arcola-il.com
Cc: John Kraft
Subject: RE: FOIA Request (Arcola Township) 6-1-2014

Do you plan on answering this FOIA request?

Thanks,
John Kraft

From: John Kraft
Sent: Sunday, June 01, 2014 9:16 PM
To: 'arcolats@arcola-il.com'
Subject: FOIA Request (Arcola Township) 6-1-2014

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

1. Copy of all bills, claims, or anything else presented for payment at the May 2014 meeting
2. Copy of the meeting minutes for the April 2014 meeting

This is not a commercial request.

Electronic records are requested.

Thank you,
John Kraft

Exhibit D

From: Arcola Township [mailto:arcolats@arcola-il.com]
Sent: Friday, June 13, 2014 9:05 AM
To: John Kraft
Cc: Bill Coombe; Carol Ingram
Subject: RE: FOIA Request (Arcola Township) 6-1-2014

Mr. Kraft,
I received this FOIA on the 2nd of June. We copied the requested documents and took them to Mr. Petty.
Deana Shields - Office Mgr
Arcola Twp

From: John Kraft [mailto: [REDACTED]]
Sent: Thursday, June 12, 2014 10:36 PM
To: arcolats@arcola-il.com
Cc: John Kraft
Subject: RE: FOIA Request (Arcola Township) 6-1-2014

Do you plan on answering this FOIA request?

Thanks,
John Kraft

From: John Kraft
Sent: Sunday, June 01, 2014 9:16 PM
To: 'arcolats@arcola-il.com'
Subject: FOIA Request (Arcola Township) 6-1-2014

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

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ARCOLA TOWNSHIP

NO. 2014-MR- 34

COPY

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 August 7, 20 14.

(Seal of court)

Julie Mills
 Clerk of court

Associate Circuit Clerk-Deputy

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