

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS**

EDGAR COUNTY WATCHDOGS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>19CH596</b>
	)	
VILLAGE OF ALORTON,	)	
	)	
Defendant.	)	

**COMPLAINT**

NOW COMES Plaintiffs, EDGAR COUNTY WATCHDOGS, by the undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendant VILLAGE OF ALORTON's failure, in willful violation of the Illinois Freedom of Information Act, to respond to Plaintiffs' Freedom of Information Act requests for various records pertaining to the village's elected officials, public meetings, and employees. In support of the Complaint, EDGAR COUNTY WATCHDOGS 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

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

3. Under FOIA Section 1.2, “[a]ll records in the custody or possession 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 140/1.2.”

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.” 5 ILCS 140/11(h).

### **PARTIES**

5. Plaintiffs EDGAR COUNTY WATCHDOGS (“ECW”) is the FOIA requester in this case. ECW is a non-profit organization comprised of investigative reporters whose purpose is to foster accountability, truth, and transparency in our local governing bodies.

6. Defendant VILLAGE OF ALORTON (“ALORTON”) is a public body located in St. Clair County, Illinois.

### **JULY 25, 2019 FOIA REQUEST (COMPENSATION)**

7. On July 25, 2019, via email, ECW submitted a FOIA request to ALORTON seeking “cop[ies] of last 3 ordinances/resolutions or anything else setting the compensation of elected officials of the Alorton” and “[c]opy of all credit card statements for the past 2 years.” Exhibit A.

8. On September 17, 2019, to ensure ALORTON’s receipt of the request, ECW submitted the same request in person at the Alorton Village Hall.

9. On October 7, 2019, after receiving no response from ALORTON, ECW submitted the same request in person at the Alorton Village Hall. ALORTON acknowledged receipt of the request by stamping the request as received. Exhibit A.

10. On October 31, 2019, ALORTON produced some records responsive to the request.

11. ALORTON did not produce records pertaining to the last three ordinances, resolutions, etc. that set the compensation of elected officials of the Alorton and did not claim any exemptions for them.

12. As the date of this filing, ALORTON has not produced all the requested records.

#### **OCTOBER 7, 2019 FOIA REQUEST (MEETINGS)**

13. On October 7, 2019, ECW submitted a FOIA request, in person, to ALORTON seeking the following: “ 1. Copy of last 12 months of Meeting Agendas, 2. Copy of last 12 months of Meeting Minutes, 3. Copy of Financial Transaction History of all village bank accounts since Jan 1, 2019, [and] 4. Copy of the Village’s Vehicle Use Policy.” Exhibit B.

14. On October 7, 2019, ALORTON acknowledged receipt of the request by stamping the request as received. Exhibit B.

15. ALORTON never took an extension and never responded to the request.

16. As the date of this filing, ALORTON has not responded to the request and has produced no records.

#### **COUNT I – JULY 25, 2019 (COMPENSATION), FAILURE TO PRODUCE RECORDS**

11. The above paragraphs are incorporated by reference.

12. ALORTON is a public body under FOIA.

13. The records sought in ECW's FOIA requests are non-exempt public records of ALORTON.

14. ALORTON violated FOIA by failing to respond to the FOIA requests by the required deadline.

**COUNT II – JULY 25, 2019 (COMPENSATION),  
FAILURE TO PERFORM AN ADEQUATE SEARCH**

15. The above paragraphs are incorporated by reference.

16. ALORTON is a public body under FOIA.

17. ALORTON bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

18. ALORTON has failed to come forward with sufficient evidence to carry this burden.

19. ALORTON has violated FOIA by failing to adequately search for responsive records.

**COUNT III – JULY 25, 2019 (COMPENSATION),  
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

20. The above paragraphs are incorporated by reference.

21. ALORTON is a public body under FOIA.

22. The records sought in ECW's FOIA requests are non-exempt public records of ALORTON.

23. ALORTON willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

**COUNT IV – OCTOBER 7, 2019 (MEETINGS),  
FAILURE TO PRODUCE RECORDS**

24. The above paragraphs are incorporated by reference.

25. ALORTON is a public body under FOIA.

26. The records sought in ECW's FOIA requests are non-exempt public records of ALORTON.

27. ALORTON violated FOIA by failing to respond to the FOIA requests by the required deadline.

**COUNT V – OCTOBER 7, 2019 (MEETINGS),  
FAILURE TO PERFORM AN ADEQUATE SEARCH**

28. The above paragraphs are incorporated by reference.

29. ALORTON is a public body under FOIA.

30. ALORTON bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

31. ALORTON has failed to come forward with sufficient evidence to carry this burden.

**COUNT VI – OCTOBER 7, 2019 (MEETINGS),  
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

32. The above paragraphs are incorporated by reference.

33. ALORTON is a public body under FOIA.

34. The records sought in ECW's FOIA requests are non-exempt public records of ALORTON.

35. ALORTON willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

**WHEREFORE**, ECW 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 ALORTON has violated FOIA;
- iii. order ALORTON to produce the requested records;
- iv. enjoin ALORTON from withholding non-exempt public records under FOIA;
- v. order ALORTON to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

Dated: November 7, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiff  
EDGAR COUNTY WATCDOGS

Matthew Topic  
Joshua Burday, ARDC# 6320376  
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311 North Aberdeen, 3rd Floor  
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312-243-5900  
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**From:** John Kraft  
**Sent:** Thursday, July 25, 2019 9:43 AM  
**To:** scott.jan@alorton-il.us.readnotify.com  
**Subject:** FOIA request (Alorton) 7-25-2019

On behalf of the Edgar County Watchdogs, Inc. and in accordance with the Freedom of Information Act I am ordering the following public records.

If you are not the FOIA officer, you are required to immediately forward this records order to the appropriate FOIA officer as required by statute [5 ILCS 140/3(c)].

You are required to provide these records according to the timeline set forth in the freedom of information act.

I am ordering the following public records under the Freedom of Information Act:

1. **Copy of last 3 ordinances/resolutions or anything else setting the compensation of elected officials of the Alorton. This would include the Mayor, Aldermen, Clerk.**
2. **Copy of all credit card statements for the past 2 years.**

**Electronic copies are requested.**

**This is not a commercial request.**

*I, and the organizations I represent (Disclosure News Magazine, Edgar County Watchdogs Inc, and American Watchdogs Inc), qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), and the principal purpose of the request is to access and disseminate information concerning news and current or passing events, or for articles of opinion or features of interest to the public.; Section 2 (f) ("News media") as an Investigative Reporter for Disclosure News Magazine, an online and printed newspaper, and an Investigative Reporter for the Edgar County Watchdogs, an online news site, and am engaged in making news reels and other motion picture for public viewing, and as a news service to provide news and data to news organization(s) and nonprofits; Section 2 (g) ("Recurrent requester"); and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes); Section 3.2 (Recurrent requesters); Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).*

*This is also a request for fee waiver, should any fees be imposed, as this information bears on the public business of this public body and will be used to inform citizens of the actions of their public officials and employees, of their rights and responsibilities, of news and current or passing events, and for articles of opinion or features of interest to the public. The principal purpose of this 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 gaining a personal or commercial benefit.*

Thanks,  
John Kraft



Exhibit A

## FOIA REQUEST

### #1 Compensation of Elected Officials

#### PERSONNEL COST

#### 2016-2017 VILLAGE OF ALORTON BUDGET

##### Mayor & Board of Trustees

(1) Mayor's Salary & Expenses*	\$19,000.00	
(6) Trustee's Salaries & Expenses	\$22,500.00	
FICA @7.65%	\$3,175.00	
Total Personnel Cost - Mayor & Board of Trustees		\$44,675.00

#### PERSONNEL COST

#### 2017-2018 VILLAGE OF ALORTON BUDGET

##### Mayor & Board of Trustees

(1) Mayor's Salary & Expenses*	\$19,000.00	
(6) Trustee's Salaries & Expenses	\$22,500.00	
FICA @7.65%	\$3,175.00	
Total Personnel Cost - Mayor & Board of Trustees		\$44,675.00

#### PERSONNEL COST

#### 2018-2019 VILLAGE OF ALORTON BUDGET

##### Mayor & Board of Trustees

(1) Mayor's Salary & Expenses*	\$19,000.00	
(6) Trustee's Salaries & Expenses	\$22,500.00	
FICA @7.65%	\$3,175.00	
Total Personnel Cost - Mayor & Board of Trustees		\$44,675.00

#### PERSONNEL COST

#### 2019-2020 VILLAGE OF ALORTON BUDGET

##### Mayor & Board of Trustees

(1) Mayor's Salary & Expenses*	\$19,000.00	
(6) Trustee's Salaries & Expenses	\$22,500.00	
FICA @7.65%	\$3,175.00	
Total Personnel Cost - Mayor & Board of Trustees		\$44,675.00

### #2 Copy of All Credit Card Statements

N/A Village Doesnot have any Creditcards



John Kraft

**Subject:** FOIA request (Alorton) 10-07-2019

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Thanks,  
John Kraft



Exhibit B