

**IN THE CIRCUIT COURT OF THE 12TH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS**

JOHN KRAFT, AND THE EDGAR COUNTY)
WATCHDOGS, INC.)
)
PLAINTIFFS,)
)
v.)
)
WESLEY TOWNSHIP)
)
DEFENDANT.)

Case No.: 20CH743

COMPLAINT

NOW COMES Plaintiffs, JOHN KRAFT and the EDGAR COUNTY WATCHDOGS, INC., by and through their attorneys, AMBROZIAK LAW GROUP, and bring this suit to Overturn Defendant's refusal, and willful violation of the Illinois Freedom of Information Act, to respond to Plaintiff's Freedom of Information Act requests. In support of this Complaint, Plaintiffs state 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.

Initial case management set for
02/03/2021 at: 9:00 a.m.

3. All public records 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 140/3.

4. Each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. *Denial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request.* 5 ILCS 140/3(d). Emphasis added.

5. *Each public body denying a request for public records shall notify the requester in writing of the decision to deny the request,* the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public body shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial shall inform such person of his right to judicial review under Section 11 of this Act. 5 ILCS 140/9(a). Emphasis added.

6. “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.

PARTIES

7. JOHN KRAFT and EDGAR COUNTY WATCHDOGS INC. (hereafter “Plaintiffs”) are the FOIA requesters in this case.

8. Plaintiffs are neither recurrent requesters, nor do Plaintiffs request documents from WESLEY TOWNSHIP for a commercial purpose as defined by 5 ILCS 140/2.

9. WESLEY TOWNSHIP (hereafter “Defendant”) is a public body under the FOIA and is located in Will County, Illinois.

10. The records sought are non-exempt public records of the Defendant.

11. Defendant, in bad faith, willfully and intentionally violated the FOIA by Defendant’s ongoing and constant refusal to, and failure to properly respond to the FOIA request shown below and in the attached Exhibits hereto and incorporated herein.

FOIA REQUEST- September 23, 2020

12. On September 23, 2020, Plaintiffs submitted a FOIA request (hereafter “Request”) via email to Defendant. See Exhibit A.

13. In their Request, Plaintiffs requested the following records:

- a. Copy of all FOIA requests (just the requests, not the responses), in the past three years, that the township alleges that Ms. Brzana submitted while claiming to be Tim Grant ***and others*** as stated in Paragraph 4 of the Township’s recently filed “Wesley Township and Wesley Township Road District’s Motion to Join Leonard McCubbin as a Counter-plaintiff” in Will County case number 19-CH-1143. (Emphasis added). See *Id.*

14. On September 28, 2020, Plaintiffs received a response to their Request from Wesley Township Clerk, Serry Yakima. See Exhibit B.

15. Defendant’s response contained thirty-eight (38) pages of FOIA requests solely from a Tim Grant.

16. Plaintiffs had specified in their September 23, 2020 Request that Defendant provide FOIA requests made by Cynthia Brzana while claiming to be Tim Grant ***and others***. See Exhibit A.

17. In case number 19 CH 1143, Defendant (several of Wesley Township officials) gave

statements that Defendant was aware of FOIA requests that were submitted by other names attributed to Ms. Brzana.

18. On October 6, 2020, Defendant, through Wesley Township Supervisor Michael Medlin, stated that it was aware that Ms. Brzana submitted FOIA requests, apart from Tim Grant, under the names of Sue (Wunsch) (person with cancer), Fran (Brecia), and. See Exhibit C, page 53, lines 7 - 12.

19. On October 6, 2020, Defendant additionally stated, through Wesley Township Clerk Sherry Yakima, that it was aware that Ms. Brzana submitted FOIA requests under the names of Katie Brzana her daughter, Sue (Wunsch) friend-deceased, and Jeff, or Fran. See Exhibit D, page 31, lines 15-22.

20. Defendant, in bad faith, failed to include any FOIA requests from these other names that were attributed to Ms. Brzana in their September 28, 2020 response.

21. Defendant's bad faith conduct rises to the level of a willful and intentional violation of the FOIA as exhibited by the fact that both the Wesley Township Supervisor and the Wesley Township Clerk were of the belief that Ms. Brzana submitted FOIA requests under other names and failed to include these other requests in response to Plaintiffs' Request.

22. As of the date of this filing, Defendant has not sent Plaintiffs any supplemental FOIA requests regarding these other alleged aliases of Ms. Brzana.

23. Accordingly, Defendant failed to comply with Plaintiffs' Request by not responding to the Request with all of the names attributed to Ms. Branza within the five-business day timeframe imposed by 5 ILCS 140/3(d). As such, Defendant's inaction constituted a denial of request under 5 ILCS 140/3(d).

24. Defendant violated the FOIA by failing to provide justification for why Plaintiffs' request

was denied, as required under 5 ILCS 140/9(a).

WHEREFORE, Plaintiffs JOHN KRAFT and THE EDGAR COUNTY WATCHDOGS, INC. pray that this Honorable Court:

- A. 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; and
- B. Declare that the WESLEY TOWNSHIP has violated the FOIA; and
- C. Declare that the WESLEY TOWNSHIP has acted in bad faith; and
- D. Declare that the WESLEY TOWNSHIP has acted willfully and intentionally; and
- E. Order the WESLEY TOWNSHIP to produce the requested records; and
- F. Enjoin the WESLEY TOWNSHIP from withholding non-exempt public records under the FOIA; and
- G. Order the WESLEY TOWNSHIP to pay civil penalties; and
- H. Award Plaintiffs' reasonable attorneys' fees and costs; and
- I. Award such other relief the Court considers just and equitable.

RESPECTFULLY SUBMITTED,

/s/ Denise M. Ambroziak
Denise M. Ambroziak
Attorney for Plaintiffs

Denise M. Ambroziak
ARDC #6244325
AMBROZIAK LAW GROUP
Attorneys for Plaintiffs
640 McHenry Ave
Woodstock, IL 60098
(815) 459-4949
ambroziaklaw@comcast.net

EXHIBIT A

From: John Kraft
Sent: Wednesday, September 23, 2020 1:00 PM
To: Wesley Clerk <wesleytownshipclerk@gmail.com>
Subject: FOIA Request (Wesley Twp) - 9 -23-2020

In accordance with the Freedom of Information Act I am requesting the following. If you are not the FOIA officer please forward to the FOIA officer as required by statute.

Electronic copies requested.

Copy of the following:

- Copy of all FOIA requests (just the requests, not the responses), in the past three years, that the township alleges that Ms. Brzana submitted while claiming to be Tim Grant and others as stated in Paragraph 4 of the Township's recently filed "[Wesley Township and Wesley Township Road District's Motion to Join Leonard McCubbin as a Counter-plaintiff](#)" in Will County case number 19-CH-1143.

Electronic copies are requested.

This is not a commercial request.

This is also a request for fee waiver, should any fees be imposed, as this information bears on the public business of the local and state governments in Illinois and will be used to inform citizens of the actions of their public officials, 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

I, and the organizations I represent, qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), 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). Additionally, I, and the organizations I represent, qualify as "news media" under the Illinois Vehicle Code, Section 1-148.5.

Thanks,
John Kraft

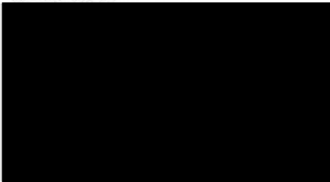


EXHIBIT B

From: Wesley Clerk <wesleytownshipclerk@gmail.com>
Sent: Monday, September 28, 2020, 07:43
To: John Kraft
Subject: Re: FOIA Request (Wesley Twp) – 9 –23–2020



September 28, 2020

Rebecca Becker

Re: Freedom of Information Act Request to Wesley Township dated September 23, 2020

Dear Mr. Kraft:

The purpose of this correspondence is to respond to your request for information from Wesley Township. Attached please find the materials that are responsive to your request.

Copy of the following:

- Copy of all FOIA requests (just the requests, not the responses), in the past three years, that the township alleges that Ms. Brzana submitted while claiming to be Tim Grant and others as stated in Paragraph 4 of the Township's recently filed "Wesley Township and Wesley Township Road District's Motion to Join Leonard McCubbin as a Counter-plaintiff" in Will County case number 19-CH-1143.

Attached

Wesley Township is committed to transparency in government. To the extent that we have documents responsive to your request, we have produced them. However, to the extent we do not have such documents, such as cancelled checks or payment receipts, your request is denied. I am the person responsible for the denial of your request. You may appeal this decision to the Public Access Counselor of the Illinois Attorney General's Office. The Public Access Counselor may be contacted at 1-877-299-FOIA or by correspondence to the Public Access Counselor, Office of the Illinois Attorney General, 500 S. 2nd Street, Springfield, IL 62702.

Very truly yours,

Sherry Yakima
Township Clerk
Wesley Township FOIA Officer

Copy of the following:

- Copy of all FOIA requests (just the requests, not the responses), in the past three years, that the township alleges that Ms. Brzana submitted while claiming to be Tim Grant and others as stated in Paragraph 4 of the Township's recently filed "Wesley Township and Wesley Township Road District's Motion to Join Leonard McCubbin as a Counter-plaintiff" in Will County case number 19-CH-1143.

EXHIBIT C

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

IN THE CIRCUIT COURT OF THE 12TH JUDICIAL
CIRCUIT, WILL COUNTY, ILLINOIS

CYNTHIA BRZANA & TIM GRANT,)
)
 Plaintiffs,)
)
vs.) No. 19 CH 1143
)
WESLEY TOWNSHIP AND WESLEY)
TOWNSHIP ROAD DISTRICT,)
)
 Defendants.)

 The Zoom videoconference discovery
deposition of MICHAEL MEDLIN taken before Gina
Marie Zangara, C.S.R., on October 6, 2020, at the
hour of 10:00 o'clock a.m.

 Q & A REPORTING, INC.
7115 Virginia Rd., Suite 105
Crystal Lake, IL 60014
815-477-2230
www.qareportinginc.com

APPEARANCES REMOTELY:

LAW OFFICES OF ROBERT T. HANLON &
ASSOCIATES,
BY MR. ROBERT T. HANLON,
appeared on behalf of the Plaintiffs;

ANCEL, GLINK P.C., by
MR. MATTHEW T. DICIANNI,
appeared on behalf of the Defendants.

ALSO PRESENT: CYNTHIA BRZANA VIA PHONE

I N D E X

WITNESS:	PAGE:
MICHAEL MEDLIN	
Examination by Mr. Hanlon	3, 75
Examination by Mr. DiCianni	74

EXHIBIT MARKED:

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1 know what you might be asking.

2 Q. Do you have any knowledge as you sit
3 here today that Mr. Tim Grant had not made the
4 request for the FOIAs that are subject to the
5 First Amended Complaint that are attributed to
6 him?

7 A. The only thing I have is an email or a
8 text that Mrs. Brzana sent to a Mrs. Karen Wilson
9 where she said to her I have reached the maximum
10 number of FOIAs I can submit, so now I am filing
11 under Tim, Fran somebody, and Sue, another friend
12 of her's that was dying of cancer.

13 Q. So outside of that particular text
14 message, do you have any knowledge concerning
15 that?

16 A. Only the one on one conversations of
17 probably 4 or 5 people.

18 Q. What 4 or 5 people?

19 A. One would have been Sherry Yakima,
20 Leonard McCubbin, Connie Forsythe, and Karen
21 Wilson. She told all of them she was filing
22 under Tim's name.

23 Q. Well, let me ask you a question. Do you
24 think that gives you a cause of action as to the

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF McHENRY)
4

5 I, GINA MARIE ZANGARA, C.S.R., do hereby
6 certify that MICHAEL MEDLIN was by me first duly
7 sworn, to testify the truth, the whole truth, and
8 nothing but the truth, and that the above
9 deposition, pages 3 through 77, inclusive, was
10 recorded by me and reduced to typewriting by me.

11 I FURTHER CERTIFY that the foregoing
12 transcript of the said deposition is a true and
13 correct transcript of the testimony given by the
14 said witness at the time and place specified
15 hereinbefore.

16 I FURTHER CERTIFY that I am not a relative
17 or employee or attorney for counsel of any of the
18 parties, nor a relative or employee of such
19 attorney or counsel, or financially interested
20 directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto
22 hand at Crystal Lake, Illinois, this 7TH day of
23 OCTOBER, 2020.

24 *Gina Zangara*



Gina Marie Zangara
Certified Shorthand Reporter
McHenry County, IL
CSR License No. 084-003242.

EXHIBIT D

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

IN THE CIRCUIT COURT OF THE 12TH JUDICIAL
CIRCUIT, WILL COUNTY, ILLINOIS

CYNTHIA BRZANA & TIM GRANT,)
)
 Plaintiffs,)
)
vs.) No. 19 CH 1143
)
WESLEY Township AND WESLEY)
Township Road District,)
)
 Defendants.)

 The Zoom videoconference discovery
deposition of SHERRY YAKIMA taken before Gina
Marie Zangara, C.S.R., on October 6, 2020, at the
hour of 12:35 p.m.

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APPEARANCES REMOTELY:

LAW OFFICES OF ROBERT T. HANLON &
ASSOCIATES,
BY MR. ROBERT T. HANLON,
appeared on behalf of the Plaintiffs;

ANCEL, GLINK P.C., by
MR. MATTHEW T. DICIANNI,
appeared on behalf of the Defendants.

ALSO PRESENT: CYNTHIA BRZANA VIA PHONE

I N D E X

WITNESS:	PAGE:
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SHERRY YAKIMA

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Examination by Mr. DiCianni	45

EXHIBIT MARKED:

No. 1	Request to Admit Facts	21
No. 2	First Amended Complaint	21

1 act, correct?

2 A. Yes.

3 Q. Do you have any personal knowledge, and
4 I'm talking about personal knowledge, your own
5 knowledge, that Cindy Brzana submitted any FOIA
6 requests to the Township under anybody else's
7 name?

8 A. Yes.

9 Q. And what knowledge do you have?

10 A. I have had several conversations with
11 Cindy Brzana in the past. She has confided in me
12 and told me that she did file FOIAs under Tim
13 Grant's name, and that if he found out, that he
14 would kill her, and she needed to keep it quiet.
15 She also told me that she was filing them
16 underneath a friend of her's, Sue, who is since
17 deceased. She also told me that she had filed
18 them under her daughter's name, which would be
19 Katie Brzana. And she had also told me that she
20 was filing them under somebody else that I'm
21 unsure of. I believe maybe Jeff and Fran were
22 the names.

23 Q. Let me stop you right there.

24 A. Okay.

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF McHENRY)
4

5 I, GINA MARIE ZANGARA, C.S.R., do hereby
6 certify that SHERRY YAKIMA was by me first duly
7 sworn, to testify the truth, the whole truth, and
8 nothing but the truth, and that the above
9 deposition, pages 3 through 47, inclusive, was
10 recorded by me and reduced to typewriting by me.

11 I FURTHER CERTIFY that the foregoing
12 transcript of the said deposition is a true and
13 correct transcript of the testimony given by the
14 said witness at the time and place specified
15 hereinbefore.

16 I FURTHER CERTIFY that I am not a relative
17 or employee or attorney for counsel of any of the
18 parties, nor a relative or employee of such
19 attorney or counsel, or financially interested
20 directly or indirectly in this action.

21 IN WITNESS WHEREOF, I have hereunto
22 hand at Crystal Lake, Illinois, this 7TH day of
23 OCTOBER, 2020.

24 *Gina Zangara*

Gina Marie Zangara
Certified Shorthand Reporter
McHenry County, IL
CSR License No. 084-003242.

