

Wisconsin Transparency Project: Court rules Worcester violated open records law

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Yesterday, Judge Ann Knox-Bauer released a written decision ruling that the Town of Worcester, in Price County, violated the Open Records Law in three different ways. (Although Judge Knox-Bauer is a Taylor County judge, she was assigned to the case after Price County Judge Kevin Klein recused himself.) Specifically, the court ruled that the Town charged excessive fees for copies, failed to perform an adequate search for records, and illegally refused to turn over job applications.

Local resident Anthony Sleck filed suit in October of 2020, alleging eleven separate violations of the Open Records Law. Several of those claims were resolved shortly after suit was filed with the Town turning over some records. The case dragged on as the Town failed to respond to discovery requests in a timely manner, eventually resulting in monetary sanctions against the Town for its delay.

Yesterday's decision ruled in Sleck's favor on the three remaining claims in the case.

First, the court ruled that former Town officials violated the law by denying a request for job applications, first claiming they were "confidential" without further explanation and later claiming the Town did not have them because they were in the possession of a former Town chairman, Dan Cummings. That claim turned out to be false, and the court ruled that former Town chairman Jim Heizler's claim that the applications were confidential was legally wrong and that former Town clerk Sheila Hook had failed to perform an adequate search for the applications. She never looked for them herself, instead assuming Cummings had them, but never verified that with him. The court is requiring the Town to perform a

thorough search for those applications and turn over any responsive records it locates.

Second, the court ruled that former Town officials violated the law by denying another request for different job applications. Heizler had claimed these applications were confidential as well. But after Sleck explained that denial was illegal, Town board members took steps to ask the applicants to request their applications not be provided. Hook then denied the request, claiming a statutory exemption for certain applications who request confidentiality in writing. The court rejected that argument, ruling that at the time the request was made, no exemption applied, so the Town was required to produce the applications.

Third, the court ruled that 50 cents a page was an excessive fee for making photocopies of records. The court concluded that the Town had failed to meet its burden of proving that 50 cents was the Town's "actual, necessary and direct cost" of making copies, having relied only on Town supervisor Paul Precour's "supposition, estimate and experience working in the private sector." By contrast, Sleck produced documentary evidence of the Town's actual purchase prices for supplies, concluding that the cost for paper and toner for one copy was approximately 1.8 cents (a price in line with the Wisconsin DOJ's calculated copy cost of 1.3 cents per copy).

"This is an important ruling for requesters and custodians around the state," explained Tom Kamenick, President and Founder of the Wisconsin Transparency Project, which represents Sleck. "While it doesn't have precedential effect, it indicates that judges will not permit government authorities to exaggerate their costs for supplies or pad those calculations with costs that aren't directly related to photocopying documents for a request. Things like insurance, maintenance, and buying computer equipment are not 'actual, necessary and direct costs' of making copies."

"Town officials are servants of the community they represent," commented Sleck. "As a taxpayer, I expect my representatives to be truthful and transparent with all they do. This lawsuit has always been about making sure they are accountable to the public."

For a copy of the court's ruling or the original complaint in the case, please contact Attorney Kamenick.