

# Wisconsin Transparency Project: Lafayette County settles records lawsuit, turns over MHLC reports, pays attorney fees

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Lafayette County has settled a recent lawsuit seeking records related to Memorial Hospital of Lafayette County, Wisconsin's last remaining county-run hospital. To settle the case, Lafayette County produced copies of various reports it had illegally withheld and paid attorney fees, court costs, and statutory damages.

One of the reports the County initially withheld was a 69-page facility assessment of the MHLC building and equipment prepared by Dunham Associates. The County had argued that the report contained "plans or specifications" of state-owned buildings, which are exempt from the Open Records Law. But MHLC is not state-owned, it is County-owned. The legislature knows how to use "state" when it means state, and "county" when it means county. Furthermore, the assessment primarily consisted of evaluations of the conditions and life-expectancies of various portions of the hospital; even if MHLC was state-owned, any "plans or specifications" could have been redacted and the remainder released.

The other report was a preliminary architectural and environmental report. The county had argued that the preliminary report was only a "draft," and draft documents are exempt from the Open Records Law. But a "draft" is only exempt if it is prepared for its creator's own personal use. The draft version of this reported

was prepared by a third party, Fehr Graham Engineering, and was not kept by Fehr Graham for its own use, but rather had been shared with the County as part of an ongoing process. Once a draft is shared among different people - or at least different departments - it becomes a public record.