



FILED  
APR 27 2020  
WHITMAN COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR WHITMAN COUNTY

ERIC HOOD,

Plaintiff,

vs.

CITY OF TEKOA,

Defendant.

NO. 20 2 00070 38

COMPLAINT FOR VIOLATIONS OF  
THE PUBLIC RECORDS ACT

COMES NOW, the Plaintiff, herein and for claims. against the Defendant complains and alleges as follows:

I. JURISDICTION AND VENUE

1.1 Jurisdiction in this Court is proper under RCW 2.08.010, because jurisdiction has not been exclusively vested in another court by law, and because RCW 42.56.550(1) authorizes “[j]udicial review of all agency actions taken or challenged under RCW42.56.030 through RCW 42.56.520.”

1.2 Venue in this Court is proper pursuant to RCW 42.56.550(1) because, on information and belief, at least one of the requested records is maintained in Whitman County.

1 II. PARTIES

2 2.1 Plaintiff Eric Hood (hereinafter "Hood") is an individual residing primarily in  
3 Island County, Washington State.

4 2.2 Defendant City of Tekoa (hereinafter "City") was at all material times herein  
5 subject to the Public Records Act and responsible for the actions of its employees pursuant to  
6 RCW 42.56.550.

7  
8 III. FACTS

9 3.1 On April 22, 2019, Hood emailed tekoaclerk@gmail.com and stated,

10 I learned that Tekoa was recently audited by the state auditor. May I have all records it  
11 got from the auditor and all records of any response to the audit or to the audit report?  
12 Please send them via email or I can share a dropbox.

13 3.2 Hood received no reply within five business days.

14 3.3 On May 3, 2019, Hood received an email from City Clerk/Treasurer Kynda  
15 Browning at tekoaclerk@gmail.com, which stated in relevant part, "Here you go." Attached to the  
16 email was a State Auditor's Office 48-page Financial Statements Audit Report of the City of  
17 Tekoa.

18 3.4 On May 3, 2019 Hood and Ms. Browning had the following email exchange: via

19 [Hood:] Hi, thanks for your reply. I haven't had a chance to look yet, but will you  
20 be sending anything else?

21 [Browning:] This is what we got from our audit, so does this satisfy your request?

22 [Hood:] Please see my request.

23 [Browning:] Got it.  
24  
25

1           3.5     As of the date of this complaint, Hood received no further communications from  
2 City.

3           3.6     The City's response showed it understood or was capable of understanding before  
4 Hood filed this complaint that his records request encompassed records in addition to the records  
5 it produced to him.

6           3.7     The City's response showed it was capable of requesting clarification from Hood,  
7 if it needed any.

8           3.8     The audit report produced to Hood by the City indicates the City withholds records  
9 responsive to Hood's request for records described in 3.1, *supra*.

10  
11 IV. CAUSE OF ACTION

12           4.1     Plaintiff realleges and incorporates by reference each allegation of paragraphs 1.1  
13 through 3.8, inclusive, as if alleged herein.

14           4.2     The City is a local agency pursuant to the Public Records Act.

15           4.3     Hood's request described in paragraph 3.1 is a request for identifiable classes of  
16 public records, made pursuant to the Public Records Act.

17           4.4     As an agency, the City has a statutory duty to honor requests received in person  
18 during an agency's normal office hours, or by mail or email, for identifiable public records unless  
19 exempted by provisions of [the Public Records Act] and not require an "official format [...] for  
20 making a records request." RCW 42.56.080(2).

21           4.5     As an agency, the City has a statutory duty to respond within five business days of  
22 receiving a public records request by  
23

24           (a) [p]roviding the record[s]; (b) [p]roviding an internet address and link on the agency's  
25 web site to the specific records requested...; (c) [a]cknowledging that the agency...has

1 received the request and providing a reasonable estimate of the time the agency...will  
2 require to respond to the request; (d) Acknowledging that the agency [...] has received the  
3 request and asking the requestor to provide clarification for a request that is unclear [...];  
4 or (e) [d]enying the public record request.

5 RCW 42.56.520(1).

6 4.6 For any record it withholds, the City has a statutory duty to provide “a statement of  
7 the specific exemption authorizing the withholding of the record...and a brief explanation of how  
8 the exemption applies to the record withheld.” RCW 42.56.210(3).

9 4.6 The City has a duty to conduct an adequate search for responsive records.

10 4.7 The City has a statutory duty to “adopt and enforce reasonable rules and regulations  
11 ... consonant with the intent of this chapter to provide full public access to public records [and] to  
12 protect public records from damage or disorganization [...]. Such rules and regulations shall  
13 provide for the fullest assistance to inquirers and the most timely possible action on requests for  
14 information.” RCW 42.56.100.

15 4.8 The City has a statutory duty to adequately train its employees pursuant to RCW  
16 42.56.150.

17 4.9 Upon information and belief, the City, at a minimum, breached its duties referenced  
18 in paragraphs 4.4 through 4.8.

19  
20 V. RESERVATION OF RIGHTS

21 5.1 Mr. Hood reserves the right to amend this complaint regarding the factual  
22 allegations contained herein, and to add any and all other claims. that have or may arise from the  
23 facts underlying this lawsuit.

1 VI. PRAYER FOR RELIEF

2 WHEREFORE, Plaintiff Eric Hood asks the Court for the following relief:

3 6.1 That this Court order the City to promptly and properly respond to Mr. Hood's  
4 public records request, including producing all non-exempt records, and disclosing all exempt  
5 records and providing a brief explanation for any withholding.

6 6.2 That this Court award all costs, including reasonable attorney fees incurred in  
7 connection with this legal action, to Mr. Hood pursuant to RCW 42.56.550(4);

8 6.4 That this Court award a monetary penalty for each day that Mr. Hood was denied  
9 the right to inspect and copy each record requested pursuant to RCW 42.56.550(4); and

10 6.5 Any such other relief as this Court may deem just, equitable, and proper under the  
11 circumstances.

12  
13 DATED this 9<sup>th</sup> day of April, 2020, by

14  
15  
16   
Eric Hood