



August 18, 2009

City of Newton Falls
Richard F. Schwartz, Law Director
19 North Canal Street
Newton Falls, Ohio 44444

Dear Mr. Schwartz:

The American Civil Liberties Union of Ohio Foundation has been contacted by [REDACTED] whose right to obtain access to public records of the city of Newton Falls is being restricted and/or denied without explanation by City Clerk Kathleen King. We would like to remind your office that the city, and its personnel in charge of records, have a legal obligation to provide access to public records to anyone who requests them.

Under Ohio Revised Code §149.43, any person may request to either inspect or receive copies of public records.

- All public records requested shall be promptly prepared and made available for inspection at all reasonable times during business hours (ORC §149.43(B)(1)).
- If a request is denied, the public office or the person responsible shall provide the requester with an explanation, including legal authority, setting forth the reason the request was denied (ORC §149.43(B)(3)).
- The person making the request is not required to state either his/her name or reason for requesting the records (ORC §149.43(B)(4)).
- The public office or the person responsible for the public record shall permit the requester to choose on what medium the requester would like to receive the records (ORC §149.43(B)(6)).

If records are unfairly denied, a person may initiate a mandamus action, pursuant to ORC §149.43(C)(1), in order to compel the records requests.

- The requester may collect both attorneys' fees and civil statutory damages where the public office has failed to comply with the legal requirements set forth in ORC §149.43.
- Statutory damages are one-hundred dollars (\$100) per day per record, with a maximum one-thousand dollar (\$1,000) penalty per record.

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As stated, every person has the right, by law, to request public records. No city official, including Police Chief John Kuivila, shall make threats or threaten legal action against any person or business exercising their legal rights.

We strongly encourage you to ensure all personnel in the city of Newton Falls responsible for records requests promptly fulfill those requests. With your cooperation, I anticipate any further attention from our office on this matter will not be necessary.

Should you have any questions, please do not hesitate to contact us at [REDACTED] or contact@acluohio.org.

Sincerely,

[REDACTED]
Carrie Davis
Staff Attorney
ACLU of Ohio Foundation, Inc.