



centerforconstitutionalrights

on the front lines for social justice

April 18, 2011

City of Rochester
Records Access Officer
City Hall, Room 202A
30 Church Street
Rochester, New York 14614-1287

RE: REQUEST FOR RECORDS UNDER THE FREEDOM OF INFORMATION LAW

This letter constitutes a request to the City of Rochester, New York (“the City” or “the Agency”) under the provisions of the Freedom of Information Law (“FOIL”), Article 6 of the Public Officers Law, by the Center for Constitutional Rights (“the Requester”).

A. The Requester

The Center for Constitutional Rights (“CCR”) is a not-for-profit, public interest, legal, and public education organization that engages in litigation, public advocacy, and the production of publications in the fields of civil and international human rights. CCR also publishes newsletters, know-your-rights handbooks, and other similar materials for public dissemination. CCR operates a website, www.ccrjustice.org, which addresses the issues on which the CCR works. The website includes material on topical civil and human rights issues and material concerning CCR’s work. All of this material is freely available to the public. In addition, CCR regularly issues press releases and operates a listserv of over 50,000 members and issues “action alerts” that notify supporters and the general public about developments and operations pertaining to CCR’s work. CCR has a communications department and regularly appears in the news.

B. The Request for Information

The Requestor seeks records related to the March 28, 2011 eviction, at 9 Ravenwood Avenue, Rochester, New York 14619 (“the eviction”), the residence of Catherine Lennon, including:

1. *Records related to the resources dedicated to executing the eviction, including but not limited to:*
 - a. Records indicating the number of City Court Marshals; Rochester police officers; officers in the Special Operations Division, Tactical Section, and Traffic Enforcement Section; and any other law enforcement officers or officials present at the scene of the eviction or involved in its execution.
 - b. Records indicating the involvement of individual law enforcement officers or officials in the facilitation and implementation of the eviction, including Commander Sam Farina.
 - c. Records indicating the number of law enforcement and traffic enforcement vehicles present at the scene of the eviction.

2. *Records related to the cost of executing the eviction, including but not limited to:*
 - a. Records of applications, complaints, or other paperwork submitted to any court of law seeking judicial intervention and permission for the eviction.
 - b. Records of agreements between the City and any contractors or any persons involved in the eviction who are not employees of the City.
 - c. Records of any additional compensation, including overtime pay, for any city marshal or law enforcement officer or official at the scene of the eviction.
 - d. Records, including radio runs or notes, of lack of resources to respond to Jefferson Avenue shooting around same time as execution of eviction.

3. *Records reflecting payments made by the owner of the property to the City of Rochester, and/or its subdivisions, to cover any costs of the eviction, including but not limited to:*
 - a. Records reflecting costs paid by the owner of the house (Fannie Mae) for eviction forms, including but not limited to:
 - i. Form X444, X448 – Petition (or the equivalent); and
 - ii. Form X445, X449 – Notice of Petition (or the equivalent).
 - b. Records reflecting costs paid by the owner of the house for eviction court fees.
 - c. Records reflecting costs paid by the owner of the house for service of eviction forms and/or warrants, including any cost paid to hire a marshal to serve the forms.
 - d. Records indicating costs paid by the owner of the house for any and all physical labor necessary for executing the eviction

4. *Records reflecting any advance planning, strategy, or tactics for executing the eviction, including ways to address demonstrators or protestors at the scene of the eviction any and all documents, correspondence, emails, call logs or memos.*

5. *Records mentioning the organization Take Back the Land.*

6. *Records of any debriefings; follow up reports, meetings or discussions; or documents generated after the eviction related to Catherine Lennon and/or topics B(1)-(5).*

C. Request for Fee Waiver

The Requester seeks a waiver of any and all costs associated with this request or producing copies of the requested records. Although the FOIL does not contain a specific fee waiver provision, “there is nothing in the Freedom of Information Law that prohibits an agency from waiving the fee for copies.”¹ In fact, many agencies waive fees as a matter of policy when the request is relatively small.²

¹ Letter of Robert Freeman, Executive Director, NYS Committee on Open Government, Opinion Number 11745, available at <http://www.dos.state.ny.us/coog/ftext/f11745.htm> (last visited Mar. 31, 2011).

² Id.

If the City of Rochester does not intend to waive fees associated with copying records, please notify the Requester prior to filling the request.

D. **Format of Production:**

Please provide the requested documents in the following format:³

- Save all records to a CD or DVD;
- Each paper record in a separately saved file;
- Maintain “parent-child” relationships, meaning the requestor must be able to identify the attachments with emails;
- Any data records in native format (i.e. excel spreadsheets in excel);
- Emails should include BCC and any other hidden fields.

E. **Other:**

As you may be aware, the Freedom of Information Law requires that an agency respond to a request within five business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If any portion of the above request does not adequately describe the records, please contact the Requester via email for clarification of the request, and when appropriate inform the Requester of the manner in which records are filed, retrieved or generated.

If, for any reason, any portion of this request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom the request or an appeal should be directed.

I can be reached at (212)614-6439 with any questions or concerns. I thank you in advance for your prompt attention.

Sincerely,



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³ The requester is willing to further negotiate the format of production.