

City of Jackson, Michigan

Notice of Appeal Rights Following a Denial of a Freedom of Information Act Request

If the City of Jackson has denied your request for information pursuant to the Freedom of Information Act (FOIA), Section 10 of the Act allows you to take one of the following actions:

1. Submit a written, signed letter to the City Manager that specifically states you are requesting an appeal of the FOIA denial. Your letter must include the word “appeal” and identify the reason(s) you believe the denial should be overturned.
2. Commence an action in circuit court within 180 days after a determination was made to deny your request, to compel disclosure of the records denied to you. If the court determines that the public record is not exempt from disclosure, the Court shall order the City to cease withholding or to produce the portion of the record wrongfully withheld. The Circuit Court for the County of Jackson shall have jurisdiction to issue the order. The Court shall determine the matter *de novo* and the burden is on the City to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching its decision. Failure to comply with an order of the court may be punishable as contempt of court.

If a person asserting the right to inspect or receive a copy of a public record or portion thereof prevails in a court action commenced pursuant to Section 10 of the FOIA, the Court shall award reasonable attorney's fees, costs and disbursements. If the person prevails in part, the court may in its discretion award reasonable attorney's fees, costs, and disbursements or an appropriate portion thereof. The award shall be assessed against the public body liable for the damages under subsection 6 of Section 10 of the Freedom of Information Act.

In an action commenced pursuant to Section 10 of the FOIA, if the court finds that the public body has arbitrarily and capriciously violated the Act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited in the general fund of the state treasury. The court shall award in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of the public record. The damages shall not be assessed against an individual, but shall be assessed against the public body, pursuant to whose public functions the public record was kept or maintained. If the court determines, in an action commenced under Section 10 of the Act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. This civil fine shall be deposited in the general fund of the state treasury.

Questions regarding this notice of your rights may be referred to the Office of the City Attorney, City of Jackson, 161 West Michigan Avenue, Jackson, MI 49201, 517-788-4050.