FILED
09-15-2025
Clerk of Circuit Court
Racine County
2025CV001240
Honorable David W. Paulson
Branch 6

STATE OF WISCONSIN CIRCUIT COURT RACINE COUNTY

MILWAUKEE RIVERKEEPER, INC.,
600 East Greenfield Avenue
Milwaukee, Wisconsin 53204,

Plaintiff,

v.

Case No. _____
Civil – Petition for Writ of Mandamus: 30952

CITY OF RACINE,
730 Washington Avenue,
Racine, Wisconsin 53403,

RACINE WATER UTILITY,
101 Barker Street,
Racine, Wisconsin 53402,

ANJUMAN ISLAM, in her official capacity as Executive Director of the Racine Water Utility,
800 Center Street, Room 227
Racine, Wisconsin 53403,

Defendants.

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 20 days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is: **Clerk of Circuit Court, Racine County Courthouse, 730 Wisconsin Avenue, Racine, WI 53403**, and to Attorney Michael Greif, Plaintiff's attorney, whose address is: **634 West Main Street, Suite 201, Madison, WI 53703**. You may have an attorney help or represent you.

If you do not provide a proper answer within 20 days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 15th day of September, 2025.

Electronically signed by Michael Greif
Michael Greif, SBN 1143090
Robert D. Lee, SBN 1116468
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Attorneys for Plaintiff

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COMPLAINT

This is an action to enforce Wisconsin's Public Records Law, WIS. STAT. §§ 19.31-.39. State law declares it the public policy of this state that every citizen is presumptively entitled to complete access to the records of state and local government. WIS. STAT. § 19.31. Defendants have arbitrarily and capriciously delayed Plaintiff's records request causing Plaintiff substantial damages. Plaintiff Milwaukee Riverkeeper, Inc., by its attorney Midwest Environmental

Advocates, Inc., hereby requests a writ of mandamus directing the Defendants, City of Racine, Racine Water Utility, and Dr. Anjuman Islam, in her official capacity as Executive Director of the Racine Water Utility, to immediately produce any record responsive to Plaintiff's request, alleging to the Court as follows:

PARTIES

1. Plaintiff Milwaukee Riverkeeper is a Wisconsin non-profit corporation located at 600 East Greenfield Avenue, Milwaukee, Wisconsin 53204. Milwaukee Riverkeeper is a "requester" as that term is used in WIS. STAT. § 19.32(3).

2. Defendant City of Racine, located at 730 Washington Avenue, Racine, Wisconsin 53403, is a "local governmental unit" as defined in WIS. STAT. § 19.32(1de) and an "authority" as defined in WIS. STAT. § 19.32(1).

3. Defendant Racine Water Utility, located at 101 Barker Street, Racine, Wisconsin 53402, is a department of the City of Racine and an "authority" as defined in WIS. STAT. § 19.32(1).

4. Defendant Dr. Anjuman Islam, whose professional address is 800 Center Street, Room 227, Racine, Wisconsin 53403, is Executive Director of the Racine Water Utility. As head of a department of a local governmental unit, Dr. Islam is an "authority" under the Public Records Law as defined in WIS. STAT. § 19.32(1), (1dm).

JURISDICTION AND VENUE

5. This Court has jurisdiction to hear this matter under WIS. STAT. § 19.37(1)(a), which provides records requesters with a private right to "bring an action for mandamus asking a court to order release of the record" when an authority withholds or delays access to all or part of a record after a written request for that record has been made.

6. Venue is proper in this County under WIS. STAT. § 19.37(1) and WIS. STAT. § 801.50(2).

FACTUAL ALLEGATIONS

7. Microsoft Corporation is developing a data center campus totaling 1,575 acres in Mount Pleasant, Wisconsin.

8. The first phase of the data center campus is currently under construction with subsequent phases planned.

9. Tech companies like Microsoft are rushing to build "hyperscale" data centers in Wisconsin. These facilities use enormous amounts of energy and water with major implications for ratepayers, communities, and the environment.

10. Defendant Racine Water Utility will provide water to the Microsoft data center in Mount Pleasant under an agreement with the Village of Mount Pleasant.

11. On February 4, 2025, Cheryl Nenn, acting on behalf of Plaintiff, sent an email to the Mayor of the City of Racine inquiring about estimated water use at the proposed Microsoft data center in Mount Pleasant. **A true and accurate copy of this email is attached as Exhibit 1 to the affidavit of Cheryl Nenn, filed herewith.**

12. Having received no response, on February 17, 2025, Nenn, acting on behalf of Plaintiff, submitted a written Public Records Request to Defendant Dr. Islam, Executive Director of the Racine Water Utility.

13. On February 20, 2025, Plaintiff received a response from Nicholas Wiltgen, Executive Assistant in the Office of the Mayor, directing Plaintiff to submit a Public Records Request to Defendant Racine Water Utility. **A true and accurate copy of this email is attached as Exhibit 1 to the affidavit of Cheryl Nenn, filed herewith.**

14. Later on February 20, 2025, Plaintiff replied to Wiltgen stating: "I believe I already submitted a records request to the Water Utility last week, but haven't heard back." **A true and accurate copy of this email exchange is attached as Exhibit 1 to the affidavit of Cheryl Nenn, filed herewith.**

15. Plaintiff's February 17, 2025 written records request requested the following records:

> public records (documents, reports, e-mails, other communications) related to facility-specific water consumption/use volume, or estimates for such use, for the proposed Microsoft Facility in Mount Pleasant, which will be using Racine water (per your Great Lakes Diversion).

A true and accurate copy of this email is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.

16. The request was limited in subject matter and sought a single record, stating:

> We are trying to get an estimate of how much water the facility will be using on a daily, monthly, annual basis. If there is one document that contains the most recent estimate of water consumption/use, that would be sufficient to satisfy this request. We don't need all the records, that seemingly contain the same information and would take months to produce. We are looking for quality and not quantity of information, in the hope that your staff time can be minimized and response time can be expedited.

A true and accurate copy of this email is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.

17. Plaintiff submitted the February 17, 2025 records request to promote it and the public's understanding as to the estimated consumption of water by the Microsoft data center under construction in the Village of Mount Pleasant, Wisconsin.

18. Understanding the estimated water use and associated impacts with regard to a proposed data center is within the mission of Plaintiff and in the public interest.

19. Receiving no response to Plaintiff's February 17, 2025 records request, Plaintiff sent a follow-up email to Dr. Islam on March 6, 2025. **A true and accurate copy of this email is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.**

20. Still obtaining no response, Plaintiff sent an additional follow-up email to Dr. Islam, copying the City of Racine Mayor and City Attorney, on June 2, 2025. This email pointed out that it had been over 100 days since the initial request and that Plaintiff had yet to receive as much as an acknowledgement of its request. **A true and accurate copy of this email is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.**

21. Less than 30 minutes later, Dr. Islam responded via email, stating "I cannot disclose the information you requested due to confidentiality. I would recommend you contacting [sic] Microsoft for any official answers." **A true and accurate copy of this email is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.**

22. Dr. Islam's email did not provide any further explanation for refusing to disclose the record requested. **A true and accurate copy of this email exchange is attached as Exhibit 2 to the affidavit of Cheryl Nenn, filed herewith.**

23. On June 2, 2025, shortly after Dr. Islam's denial of the Public Records Request, the Racine City Attorney's Office responded to Plaintiff's initial Public Records Request, acknowledging the request and stating that the request would be processed as soon as practicable and without delay. **A true and accurate copy of this email exchange is attached as Exhibit 3 to the affidavit of Cheryl Nenn, filed herewith.**

24. The acknowledgement of the Public Records Request by the City Attorney's office came over 100 days after the request was initially submitted, and after Dr. Islam's written response that no record could be disclosed due to confidentiality.

25. On June 30, 2025, Attorney Greif, on behalf of Plaintiff, called the City of Racine City Attorney's Office and left a voicemail inquiring about the status of the February 17 request.

26. On July 2, 2025, Attorney Greif, on behalf of Plaintiff, called the City Attorney's Office and was told that the February 17 records request was being reviewed with an estimated completion time of one month.

27. On August 6, 2025, Attorney Greif called Assistant City Attorney Ian Pomplin of the Racine City Attorney's Office who had been assigned Plaintiff's request.

28. During the August 6, 2025 call, Attorney Pomplin admitted that he had not yet looked at the February 17 request.

29. During the August 6, 2025 call, Attorney Pomplin declined to provide a specific timeframe for responding to the request.

30. As of the date of this filing, Plaintiff has not received any record pursuant to the February 17 request.

31. As of the date of this filing, it has been 210 days since Plaintiff's February 17 request.

CAUSE OF ACTION: VIOLATION OF WIS. STAT. § 19.35(4)
Unlawful Delay in Producing Records

32. Plaintiff incorporates by reference all allegations set forth in the preceding paragraphs as if fully stated herein.

33. Under the Public Records Law, it is the declared public policy of the State of Wisconsin that every citizen is entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees of government. WIS. STAT. § 19.31 affirms that there is a presumption of complete public access to government records and that the denial of public access is contrary to the public interest.

34. The Public Records Law provides that a requester "has a right to . . . receive a copy of any record" except as otherwise provided in the statute or by common law. WIS. STAT. § 19.35(1)(a)-(b).

35. With limited exceptions not relevant here, WIS. STAT. § 19.32(2) defines "record" as "any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, that has been created or is being kept by an authority."

36. With limited exceptions not relevant here, WIS. STAT. § 19.32(3) defines "requester" as "any person who requests inspection or copies of a record."

37. Plaintiff's February 17, 2025 records request was a written request for a single public record. Plaintiff is thus a "requester" under the Public Records Law.

38. With limited exceptions not relevant here, WIS. STAT. § 19.32(1) defines "authority" as including, among other things, a "state or local office" or "department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order."

39. Defendant City of Racine is a "local governmental unit" as defined in WIS. STAT. § 19.32(1de) and an "authority" as defined in WIS. STAT. § 19.32(1).

40. Defendant Racine Water Utility is a department of the City of Racine and an "authority" as defined in WIS. STAT. § 19.32(1).

41. WIS. STAT. § 19.32(1dm) defines "local public office" to include "any appointive office or position of a local governmental unit in which an individual serves as the head of a department, agency, or division of the local governmental unit."

42. Defendant Dr. Anjuman Islam is Executive Director of the Racine Water Utility. As head of a department of a local governmental unit, Dr. Islam is an "authority" under the Public Records Law as defined in WIS. STAT. § 19.32(1), (1dm).

43. Although authorities may designate "legal custodians" of public records, "[t]he designation of a legal custodian does not affect the powers and duties of an authority under" the Public Records Law. WIS. STAT. § 19.33(7).

44. Once an authority receives a records request, the Public Records Law requires it to, "as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor." WIS. STAT. § 19.35(4)(a).

45. The Wisconsin Department of Justice has stated that "10 working days is a reasonable time for an authority to respond to a simple request for a limited number of easily identifiable records." Wis. Dep't of Justice, Attorney General Josh Kaul, *Wisconsin Public Records Law Compliance Guide*, May 2024, at 15.

46. Plaintiff's records request reasonably described the requested record and reasonably limited the search in terms of subject matter in accordance with WIS. STAT. § 19.35(1)(h), going as far as to say the request could be filled by "one document."

47. Plaintiff's records request is a "simple request for a limited number of easily identifiable records" and as such should have been responded to in relatively short order. *See, e.g.,* Wis. Dep't of Justice, Attorney General Josh Kaul, *Wisconsin Public Records Law Compliance Guide*, May 2024, at 15 (explaining that 10 days is a reasonable time period to respond to a simple request).

48. Defendants did not acknowledge Plaintiff's initial request for over 100 days.

49. As of this filing, it has been 210 days since Plaintiff made a simple request for a limited number of documents.

50. Defendants arbitrarily and capriciously violated and continue to violate the Public Records Law by failing to fulfill Plaintiff's request "as soon as practicable and without delay."

51. Defendants' failure to respond to the Public Records Request "as soon as practicable and without delay" has caused substantial damages to Plaintiff and the public by depriving Plaintiff and the public of their rights under the Public Records Law to understand the conduct of governmental business regarding an important and emerging issue in the state.

Writ of Mandamus

52. To obtain a writ of mandamus compelling disclosure of records, the requester must establish (1) the requester has a clear legal right to the records sought; (2) the authority has a plain legal duty to disclose the records; (3) substantial damages would result if the Complaint for mandamus was denied; and (4) the requester has no other adequate remedy at law. *Watton v. Hegerty*, 2008 WI 74, ¶ 8, 311 Wis. 2d 52, 751 N.W.2d 369.

53. Plaintiff has a clear legal right to a copy of the requested records, or to a written statement sufficiently explaining the lawful reasons for denying any portion of its records request. WIS. STAT. § 19.35(1)(a), (4)(b).

54. Defendants have a plain legal duty to either disclose the records requested or give Plaintiff a written statement of the specific reasons for denying the written request.

55. Defendants' arbitrary and capricious delay has caused Plaintiff substantial damages by depriving Plaintiff and the public of their rights under the Public Records Law to understand the conduct of government regarding an emerging and time-sensitive issue in the state.

56. Mandamus is the exclusive remedy provided by the legislature to enforce the Public Records Law and obtain the remedies specified in WIS. STAT. § 19.37. *State v. Stanley*, 2012 WI App 42, ¶61, 340 Wis. 2d 663, 814 N.W.2d 867.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests that the Court grant the following relief pursuant to WIS. STAT. § 19.31 *et seq.*:

1. A mandamus order compelling Defendants to immediately search for and produce any record responsive to Plaintiff's February 17, 2025 records request, or a hearing no later than September 30, 2025, at which Defendants must show cause to the contrary;
2. An award to Plaintiff for reasonable attorneys' fees and actual costs related to this public records action, and damages of not less than $100 pursuant to WIS. STAT. § 19.37(2);
3. An award to Plaintiff for punitive damages totaling $1,000 under WIS. STAT. § 19.37(3); and
4. Such other relief as this Court deems appropriate.

Dated this 15th day of September, 2025.

Electronically signed by Michael Greif
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