ELECTRONICALLY FILED
Washington County Circuit Court
Kyle Sylvester, Circuit Clerk
2026-Jul-06 16:53:51
72CV-26-2120
C04D02 : 9 Pages

IN THE CIRCUIT COURT OF WASHINGTON COUNTY
4TH CIRCUIT, DIVISION 2

[redacted] **PLAINTIFF**

CASE NO. 72CV-26-2120

CITY OF ELKINS, ARKANSAS,
a municipal corporation **DEFENDANT**

ANSWER TO AMENDED PETITION

Defendant, City of Elkins, Arkansas, by and through undersigned counsel, and for its Answer to Plaintiff's Amended Petition, states:

1. Defendant admits the allegations contained in Paragraph 1.

2. Defendant admits the allegations contained in Paragraph 2.

3. Regarding the allegations contained in Paragraph 3, Defendant admits that the City Clerk is the custodian of public records. The remainder of Paragraph 3 contains a legal conclusion; as such, no response is required. To the extent a response is required, Defendant denies the remainder of the allegations contained in Paragraph 3.

4. Regarding the allegations contained in Paragraph 4, Defendant admits that the Amended Petition was served upon the Mayor. The remainder of Paragraph 4 contains a legal conclusion; as such, no response is required. To the extent a response is required, Defendant denies the remainder of the allegations contained in Paragraph 4.

5. Defendant admits that Plaintiff has brought this action pursuant to Ark. Code Ann. § 25-19-107, *et seq*. The Defendant denies that Plaintiff has alleged a cause of action or is otherwise entitled to any relief pursuant to the FOIA. The Defendant denies the remaining allegations contained in Paragraph 5.

6. Defendant does not object to jurisdiction in this Court at this time.

7. Defendant does not object to venue in this Court at this time.

8. Defendant asserts that the FOIA request referenced in Paragraph 8 speaks for itself and denies any characterization which does not strictly conform thereto.

9. Defendant asserts that the FOIA request referenced in Paragraph 9 speaks for itself and denies any characterization which does not strictly conform thereto.

10. Defendant asserts that the FOIA request referenced in Paragraph 10 speaks for itself and denies any characterization which does not strictly conform thereto.

11. Defendant asserts that the FOIA request referenced in Paragraph 11 speaks for itself and denies any characterization which does not strictly conform thereto.

12. Defendant admits that Plaintiff has communicated with staff of Defendant. The remaining allegations contained in Paragraph 12 are denied.

13. The allegations contained in Paragraph 13 are denied.

14. Defendant asserts that the documentation referenced in Paragraph 14 speaks for itself and denies any characterization which does not strictly conform thereto.

15. Regarding the allegations contained in Paragraph 15, Defendant asserts that any such communication speaks for itself and denies any characterization which does not strictly conform thereto.

16. Regarding the allegations contained in Paragraph 16, Defendant asserts that any such communication speaks for itself and denies any characterization which does not strictly conform thereto.

17. Regarding the allegations contained in Paragraph 17, Defendant asserts that any such communication speaks for itself and denies any characterization which does not strictly conform thereto.

18. Regarding the allegations of Paragraph 18, pleading affirmatively, City staff communicated with, or relied upon communications with, the builder and/or developer associated with the development regarding permitting, inspection drainage, grading, subdivision approval, and compliance matters, but not necessarily regarding specific lots. Defendant admits all allegations contained in Paragraph 18 which are not specifically admitted herein.

19. Regarding the allegations contained in Paragraph 19, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and denies any characterization which does not strictly conform thereto.

20. Regarding the allegations contained in Paragraph 20, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and denies any characterization which does not strictly conform thereto.

21. Regarding the allegations contained in Paragraph 21, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and denies any characterization which does not strictly conform thereto.

22. Defendant asserts that the written requests referenced in Paragraph 22 speak for themselves and deny any characterization which does not strictly conform thereto.

23. The allegations contained in Paragraph 23 are denied.

24. Regarding the allegations contained in Paragraph 24, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and denies any characterization which does not strictly conform thereto.

25. Regarding the allegations contained in Paragraph 25, Defendant asserts that the plats and related materials speak for themselves and denies any characterization which does not strictly conform thereto.

26. Regarding the allegations contained in Paragraph 26, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and denies any characterization which does not strictly conform thereto.

27. Regarding the allegations contained in Paragraph 27, Defendant asserts that Plaintiff's FOIA request speaks for itself and denies any characterization which does not strictly conform thereto.

28. Regarding the allegations contained in Paragraph 28, Defendant asserts that the emails referenced in Paragraph 28 speak for themselves and deny any characterization which does not strictly conform thereto.

29. The allegations contained in Paragraph 29 are denied.

30. Regarding the allegations contained in Paragraph 30, Defendant admits that it communicated with Plaintiff.

31. Regarding the allegations contained in Paragraph 31, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these

documents speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 31 are denied.

32. Paragraph 32 contains a conclusion of law; as such, no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 32.

33. The allegations contained in Paragraph 33 are denied.

34. Regarding the allegations contained in Paragraph 34, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and deny any characterization which does not strictly conform thereto.

35. Regarding the allegations contained in Paragraph 35, Defendant asserts that any such communication speaks for itself and denies any characterization which does not strictly conform thereto.

36. Regarding the allegations contained in Paragraph 36, Defendant asserts that any such communication speaks for itself and denies any characterization which does not strictly conform thereto.

37. Regarding the allegations contained in Paragraph 37, pleading affirmatively, Defendant communicated with or relied upon communications from the builder or developer regarding the development, not necessarily the specific lots. Defendant denies every allegation contained in Paragraph 37 which is not specifically admitted herein.

38. Regarding the allegations contained in Paragraph 38, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and deny any characterization which does not strictly conform thereto.

39. Paragraph 39 contains a conclusion of law; as such, no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 39.

40. Paragraph 40 contains a conclusion of law; as such, no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 40.

41. The allegations contained in Paragraph 41 are denied.

42. The allegations contained in Paragraph 42 are denied.

43. The allegations contained in Paragraph 43 are denied.

44. The allegations contained in Paragraph 44 are denied.

45. The allegations contained in Paragraph 45 are denied.

46. The allegations contained in Paragraph 46 are denied.

47. Regarding the allegations contained in Paragraph 47, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 47 are denied.

48. Paragraph 48 calls for a legal conclusion; as such, no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 48.

49. Regarding the allegations contained in Paragraph 49, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 49 are denied.

50. Regarding the allegations contained in Paragraph 50, Defendant asserts that any such communications speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 50 are denied.

51. Regarding the allegations contained in Paragraph 51, Defendant asserts that any such communications speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 51 are denied.

52. Regarding the allegations contained in Paragraph 52, Defendant asserts that any such communications speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 52 are denied.

53. Regarding the allegations contained in Paragraph 53, Defendant admits that Defendant produced documents responsive to Plaintiff's FOIA request and asserts that these documents speak for themselves and deny any characterization which does not strictly conform thereto. The remainder of the allegations contained in Paragraph 53 are denied.

54. The allegations contained in Paragraph 54 are denied.

55. Defendant denies each and every allegation not specifically admitted herein.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted under Ark. R. Civ. P. 12(b)(6) and should be dismissed.

2. The Defendant has complied with and satisfied any and all statutory requirements in denying the Plaintiff's FOIA requests.

3. The Defendant asserts the defenses of qualified immunity, statutory immunity, and other doctrines of immunity as applicable.

4. Under Ark. Code Ann. § 25-19-107(d), the Defendant is not liable for attorney's fees or other expenses, as prayed for in Plaintiff's Complaint.

5. The Defendant reserves the right to amend this Answer and/or plead further, including the reservation of all affirmative defenses required to be plead in its initial pleading, once discovery has progressed in this matter.

6. Plaintiff's Complaint should be dismissed for failure to attach a copy of the written FOIA request, as well as related documentation enumerated the allegations of Plaintiff's complaint, upon which Plaintiff bases his claim. Plaintiff does not allege good cause for failing to attach these documents as exhibits to his Complaint and there can be no showing of good cause excusing such.

7. Defendant avails itself of all applicable statutes of limitation.

WHEREFORE, the Defendant respectfully requests that Plaintiff's Complaint be dismissed with prejudice, for its costs and attorneys' fees, and for all other just and proper relief to which it may be entitled.

Respectfully submitted,

DEFENDANT

BY: */s/ Thomas N. Kieklak*
Thomas N. Kieklak, Ark. Bar No. 92262
R. Justin Eichmann, Ark. Bar No. 2003145
HARRINGTON, MILLER, KIEKLAK,
EICHMANN & BROWN, P.A.
4710 S. Thompson Street, Ste. 102
Springdale, AR 72764
Phone: [redacted]
Facsimile: [redacted]
[redacted]

CERTIFICATE OF SERVICE

I, Thomas N. Kieklak, do hereby certify that on the 6th day of July 2026, a true and correct copy of the above and foregoing was filed with the Clerk of the Court via electronic filing, and a copy of this pleading has been sent to the Plaintiff via electronic mail:

[redacted]
[redacted]
Elkins, AR 72727
Phone: [redacted]
Email: [redacted]

/s/ Thomas N. Kieklak
Thomas N. Kieklak, Ark. Bar No. 92262