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IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

CIVIL DIVISION

[redacted] PLAINTIFF

v. CASE NO. _____

CITY OF ELKINS, ARKANSAS DEFENDANT

COMPLAINT FOR ENFORCEMENT OF THE

ARKANSAS FREEDOM OF INFORMATION ACT

Plaintiff [redacted] appearing pro se, states for his Complaint against Defendant City of Elkins, Arkansas:

PARTIES

1. Plaintiff [redacted] is a citizen and resident of Washington County, Arkansas.

2. Defendant City of Elkins, Arkansas, is a municipal corporation located in Washington County, Arkansas and is subject to the Arkansas Freedom of Information Act, Ark. Code Ann. § 25-19-101 et seq.

JURISDICTION AND VENUE

3. This action arises under the Arkansas Freedom of Information Act, Ark. Code Ann. § 25-19-101 et seq.

4. Jurisdiction and venue are proper in Washington County because Defendant is located in Washington County and the requested public records are maintained by or under the control of Defendant.

FACTUAL ALLEGATIONS

5. On July 20, 2026, Plaintiff submitted an Arkansas Freedom of Information Act request seeking records concerning:

a. The Stokenbury Farms moratorium;

b. Engineer-certification requirements associated with the moratorium;

c. Resolution No. 2018-06 and detention pond remediation activities;

d. Records relied upon by the City in determining that development could resume;

e. Ownership of detention pond properties and related stormwater infrastructure;

f. Transfer of ownership, maintenance, operational, inspection, repair, funding, and stormwater-management responsibilities to any property owner's association; and

g. Records identifying whether obligations associated with detention pond remediation, maintenance, or future repairs were transferred to any property owner's association.

Exhibit A.

6. On July 20, 2026, Defendant acknowledged receipt of Plaintiff's request and advised that records would be gathered. Exhibit B.

7. On July 22, 2026, counsel for Defendant advised Plaintiff that:

a. Defendant was searching for responsive records;

b. City personnel expected responsive records to exist;

c. J.D. DeMotte's return was needed because responsive documents were believed to exist in files to which he had knowledge and access;

d. Additional searches were being performed by counsel; and

e. Engineers involved in the matter would be contacted to determine whether they possessed responsive records.

Exhibit C.

8. Defendant requested additional time to complete its search because the events at issue had occurred several years earlier.

Exhibit C.

9. Plaintiff agreed to allow additional time and further agreed that responsive records could be produced on a rolling basis as they were identified and reviewed.

Exhibit D.

10. On August 4, 2026, Defendant advised Plaintiff that information had been sent to Defendant's counsel for review and that J.D. DeMotte had contacted Rausch Coleman regarding records concerning HOA responsibilities.

Exhibit E.

11. On August 18, 2026, Plaintiff submitted follow-up correspondence seeking clarification regarding the status of responsive records and whether any records had been identified, reviewed, or were available for production.

Exhibit F.

12. Despite repeated communications, Defendant has produced no responsive records.

13. Defendant has not informed Plaintiff that no responsive records exist.

14. Defendant has not identified any statutory exemption authorizing the withholding of records.

15. Defendant has not identified any responsive records being withheld.

16. Defendant has not informed Plaintiff whether its search has been completed.

17. Defendant represented that responsive records were being searched for, reviewed, and obtained from City personnel, engineers, and third parties, yet no responsive records have been produced.

18. Plaintiff has made repeated good-faith efforts to obtain compliance without court intervention.

19. Plaintiff remains unable to determine:

a. Whether engineer certifications relating to satisfaction of the moratorium conditions exist;

b. Whether engineer sign offs, inspection reports, acceptance documents, or remediation certifications exist;

c. Whether records exist identifying who determined that detention pond concerns had been adequately addressed;

d. Whether records exist identifying who determined that development could resume;

e. Whether records exist identifying who accepted completed remediation work on behalf of the City;

f. Whether records exist regarding ownership and maintenance responsibility for the detention ponds; or

g. Whether records exist transferring maintenance, repair, operational, stormwater-management, or financial responsibility for the detention ponds to any property owner's association.

20. Plaintiff remains unable to determine whether Defendant searched personal devices, personal email accounts, text-message repositories, archived records, cloud-storage repositories, or other locations used for official City business.

COUNT I

ARKANSAS FREEDOM OF INFORMATION ACT

21. Plaintiff incorporates Paragraphs 1 through 20 as though fully set forth herein.

22. Defendant is subject to the Arkansas Freedom of Information Act.

23. The records requested by Plaintiff constitute public records unless specifically exempt by law.

24. Defendant has failed to complete its response to Plaintiff's July 20, 2026, Arkansas Freedom of Information Act request.

25. Plaintiff is entitled to judicial relief under the Arkansas Freedom of Information Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Set this matter for an expedited hearing as provided by Arkansas law;

B. Determine whether Defendant has complied with the Arkansas Freedom of Information Act;

C. Order Defendant to produce all non-exempt records responsive to Plaintiff's July 20, 2026, request;

D. Order Defendant to identify any responsive records withheld and the specific legal basis for each withholding;

E. Order Defendant to provide a sworn affidavit or declaration identifying:

(1) all custodians consulted;

(2) all City-issued email accounts searched;

(3) all personal email accounts used for official City business that were searched;

(4) all City-issued mobile devices searched;

(5) all personal devices used for official City business that were searched;

(6) all text-message repositories searched;

(7) all messaging platforms searched, including Microsoft Teams;

(8) all locations, systems, repositories, databases, cloud-storage locations, archived records, and backup locations searched;

(9) all search terms utilized;

(10) whether records were requested from engineers, consultants, developers, Rausch Coleman, NWA LD, LLC, or any other third party possessing responsive records;

(11) all categories of records located;

(12) all categories of records withheld, if any;

(13) whether engineer certifications, engineer signoffs, remediation certifications, inspection reports, acceptance documents, drainage-improvement records, completion certifications, or similar records exist regarding satisfaction of the moratorium conditions;

(14) whether records exist identifying who determined the moratorium conditions had been satisfied and development could resume;

(15) whether records exist identifying who accepted completed remediation work on behalf of the City;

(16) whether records exist transferring ownership, maintenance, inspection, repair, operational, funding, or stormwater-management responsibilities concerning the detention ponds; and

(17) whether Defendant has completed its search for records responsive to Plaintiff's July 20, 2026, request.

F. Award Plaintiff costs and all relief permitted by law; and

G. Grant all others just and proper relief.

Respectfully submitted,

John Bach 08.20.26

[redacted]

[redacted]

Elkins, Arkansas 72727

(870) [redacted]

[redacted]

Plaintiff, Pro Se

Exibit A

July 20, 2026, Arkansas FOIA Request

Stokenbury Farms Moratorium,

Engineer Certification,

Pond Remediation,

and HOA Responsibilities

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

[redacted] Mon, Jul 20, 2026 at 2:10 PM
To: Troy Reed <troyreed@elkins.arkansas.gov>, Donna Campbell <donnacampbell@elkins.arkansas.gov>, Jd Demotte <jddemotte@elkins.arkansas.gov>, [redacted] Eiland <seiland@elkins.arkansas.gov>

Dear Ms. Campbell,

This is a request for public records under the Arkansas Freedom of Information Act, A.C.A. § 25-19-101 et seq.

For clarity, I currently have two other matters pending with the City: (1) a separate records matter relating to my property, and (2) a separate records request concerning stormwater-compliance records. This request does not concern either of those matters. Instead, this request concerns the Stokenbury Farms moratorium, the engineer-certification requirement associated with that moratorium, detention pond remediation, the City's determination that development could resume, ownership of the detention pond properties, and the transfer of maintenance responsibilities to the Property Owners Association. This request seeks records relating to different subject matter and different governmental decision-making processes.

The primary purpose of this request is to identify the records relied upon by the City in determining that detention pond concerns underlying the Stokenbury Farms moratorium had been sufficiently addressed to allow development to continue, and to identify the current ownership and maintenance responsibilities associated with those detention ponds.

I request electronic copies of all responsive records whenever available.

1. Moratorium and Engineer Certification

Please provide:

• Records identifying the conditions required to satisfy or lift the November 17, 2016 moratorium.

• Records reflecting the City's determination that the engineer-certification requirement of the moratorium had been satisfied.

• Any engineer certification, report, letter, memorandum, recommendation, sign-off, inspection report, acceptance document, or other record that the City considered sufficient to satisfy the engineer-certification requirement referenced in the moratorium.

• Records identifying who submitted, reviewed, approved, accepted, or relied upon that certification.

2. Resolution No. 2018-06 and Remediation Work

Please provide records relating to Resolution No. 2018-06 and the associated agreement between the City of Elkins and NWA LD, LLC, including:

• Records showing whether the remediation work required by the agreement was completed.

• Records showing when the remediation work was completed.

• Inspection records.

• Engineer certifications or sign-offs.

• Acceptance documents.

• Records showing City verification that the required remediation work was completed.

• Records identifying who determined the obligations contained in the agreement had been satisfied.

• Records identifying who accepted the completed work on behalf of the City.

3. Determination That Development Could Resume

Please provide:

• Records identifying who determined that detention pond concerns underlying the moratorium had been adequately addressed.

• Records identifying who approved continued development following the moratorium.

• Records identifying what reports, certifications, inspections, analyses, recommendations, or other information were relied upon in making that determination.

4. Ownership and HOA Responsibilities

Please provide:

• Records identifying the current owner of the detention pond properties.

• Records identifying ownership of the detention ponds, drainage facilities, drainage easements, maintenance easements, and related stormwater infrastructure associated with the detention ponds.

• Records transferring ownership or maintenance responsibility for the detention ponds.

• Maintenance agreements.

• HOA declarations.

• HOA bylaws.

• Protective covenants, restrictions, or similar governing documents relating to the detention ponds.

• Records describing the HOA's maintenance, inspection, repair, operational, funding, water-quality, drainage, stormwater, or other responsibilities relating to the detention ponds.

• Records identifying when ownership or maintenance responsibility transferred to the HOA.

• Records identifying who approved, accepted, authorized, acknowledged, or documented that transfer.

• Records identifying the governance, control, management, or administration of the HOA at the time responsibility for the detention ponds was transferred.

• Records identifying whether any developer, developer-controlled entity, or affiliated entity retained control of the HOA following transfer of pond ownership or maintenance responsibilities.

Legal Requirements

If any portion of this request is denied, please identify the specific statutory exemption relied upon, describe the records being withheld, and identify the person responsible for the denial.

I request that responsive records be provided electronically whenever available.

Thank you for your assistance.

Sincerely,

[redacted]
[redacted]
[redacted]

Exibit B

July 20, 2026, Acknowledgment

from Donna Campbell

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

Donna Campbell <donnacampbell@elkins.arkansas.gov> Mon, Jul 20, 2026 at 2:21 PM
To: JB [redacted] Troy Reed <troyreed@elkins.arkansas.gov>, Jd Demotte <jddemotte@elkins.arkansas.gov>

Mr. [redacted]

This will be added to your other requests. Please allow time to pull all records.

Thank you,

Donna Campbell
Admin. Asst.
Elkins City Hall
donnacampbell@elkins.arkansas.gov
1874 Stokenbury Rd
Elkins, AR 72727
Ph. (479) [redacted]
Fax (479) [redacted]

From: [redacted]
Sent: Monday, July 20, 2026 2:10 PM
To: Troy Reed <troyreed@elkins.arkansas.gov>; Donna Campbell <donnacampbell@elkins.arkansas.gov>; Jd Demotte <jddemotte@elkins.arkansas.gov>; [redacted] Eiland <SEiland@elkins.arkansas.gov>
Subject: Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

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Exibit C

July 22, 2026, Email from

Thomas Kieklak

Requesting Additional Time

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

Thomas Kieklak [redacted] Wed, Jul 22, 2026 at 4:03 PM
To: [redacted]
Cc: Donna Campbell <donnacampbell@elkins.arkansas.gov>, Emily Hill [redacted]

Mr. [redacted]

I represent the City of Elkins and I have reviewed the Arkansas Freedom of Information Act (FOIA) request you made regarding the Stokenbury Farms moratorium. I spoke with Donna Campell at Elkins City Hall and she informed me that they are searching for responsive documents but are waiting for J.D. Demotte to return as they expect most responsive documents are stored in files to which he has knowledge and access. I am also searching for files and will contact the engineers who were working with the city at that time to determine if they have any responsive documents.

May I request additional time to complete this process, as the events occurred several years ago. I would like to send responsive documents to you as we are able to identify and redact them if you are agreeable. Thank you for your consideration of this request and please contact me if you would like to discuss. Sincerely, Tom

Thomas N. Kieklak, Attorney at Law
4710 S. Thompson, Suite 102
Springdale, Arkansas 72764

T: (479) [redacted]
F: (479) [redacted]
[redacted]
www.arkansaslaw.com

This communication from Harrington, Miller, Kieklak, Eichmann & Brown, P.A., including attachments, if any, is intended as a confidential and privileged communication. If received in error, you should not copy, save or reproduce in any manner, but delete immediately and notify the sender. Thank you.

From: [redacted]
Sent: Monday, July 20, 2026 2:10 PM
To: Troy Reed <troyreed@elkins.arkansas.gov>; Donna Campbell <donnacampbell@elkins.arkansas.gov>; Jd Demotte <jddemotte@elkins.arkansas.gov>; [redacted] Eiland <SEiland@elkins.arkansas.gov>
Subject: Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

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Exhibit D

July 22, 2026, Response from Plaintiff

Agreeing to Additional Time

and Rolling Production

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

[redacted] Wed, Jul 22, 2026 at 5:22 PM
To: Thomas Kieklak [redacted]
Cc: Donna Campbell <donnacampbell@elkins.arkansas.gov>, Emily Hill [redacted]

Tom,

Thank you for the update regarding the City's search for responsive records.

I appreciate the efforts being made to locate records and to contact individuals who may possess responsive documents. I am agreeable to allowing additional time for the search and appreciate the offer to provide responsive records on a rolling basis as they are identified and reviewed.

Thank you for your assistance.

Sincerely,

John

[Quoted text hidden]

Exhibit E

August 4, 2026, Update

from Donna Campbell

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

Donna Campbell <donnacampbell@elkins.arkansas.gov> Tue, Aug 4, 2026 at 2:29 PM
To: [redacted] Thomas Kieklak [redacted]
Cc: Emily Hill [redacted] Jd Demotte <jddemotte@elkins.arkansas.gov>

Good afternoon, Mr. [redacted]

I have sent the information to our City Attorney for review.
Also JD Demotte has reached out to Rausch Coleman for the HOA Responsibilities.

Thank you,

Donna Campbell
Admin. Asst.
Elkins City Hall
donnacampbell@elkins.arkansas.gov
1874 Stokenbury Rd
Elkins, AR 72727
Ph. (479) [redacted]
Fax (479) [redacted]

From: [redacted]
Sent: Wednesday, July 22, 2026 5:22 PM
To: Thomas Kieklak [redacted]
Cc: Donna Campbell <donnacampbell@elkins.arkansas.gov>; Emily Hill [redacted]
Subject: Re: Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

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Exhibit F

August 18, 2026, Follow-Up

Requesting Status Update

Gmail JB [redacted]

Subject: Arkansas FOIA Request – Stokenbury Farms Moratorium, Engineer Certification, Pond Remediation, and HOA Responsibilities

JB [redacted] Tue, Aug 18, 2026 at 7:45 AM
To: Donna Campbell <donnacampbell@elkins.arkansas.gov>, Thomas Kieklak [redacted] Emily Hill [redacted] Jd Demotte <jddemotte@elkins.arkansas.gov>, [redacted] Eiland <seiland@elkins.arkansas.gov>, Troy Reed <troyreed@elkins.arkansas.gov>

Dear Mr. Kieklak and Ms. Campbell,

I am following up regarding my July 20, 2026 FOIA request concerning the Stokenbury Farms moratorium, engineer certification, detention pond remediation, and HOA responsibilities.

I appreciate the updates provided regarding the City's search for responsive records and the efforts undertaken to locate older files and contact third parties who may possess relevant information.

As of today, however, I have not received any responsive records. Because the request is now approaching one month since submission, I would appreciate an update regarding:

1. Whether responsive records have been identified;
2. Whether any records are currently under review;
3. Whether any responsive records will be produced on a rolling basis; and
4. The anticipated timeline for production.

Thank you for your assistance.

Sincerely,

[redacted]

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