

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Del Twidt, Administrator
 Buffalo County Courthouse
 407 South 2nd St.
 Alma, WI 54610-0058

2. Article Number

(Transfer from service label)

7002 0860 0003 9283 5410

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X


 Agent Addressee

B. Received by (Printed Name)

Brian Sachtle

C. Date of Delivery

2-13-12

D. Is delivery address different from item 1?

 Yes

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3. Service Type

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4. Restricted Delivery? (Extra Fee)

 Yes

February 10, 2012

Mr. Del Twidt, Buffalo County Administrator
Buffalo County Courthouse
407 South 2nd St.
Alma, WI 50610-0058

Certified Mail Article Number: _____

Dear Mr. Twidt:

- 1) This letter is to request the following records, under the state's Open Records Law (19.31-39, Wisconsin Statutes):
- 2) All public records in your possession for the Conditional Use application named R & J Rolling Acres. I am aware that you may not be able to copy 11x17" pages. If that is the case, you may copy sections of these pages and I will piece them together.
- 3) I specifically remind you to include any public records related to the changes made by R & J Rolling Acres to their Conditional Permit application dated 1/13/12.
- 4) Please specifically answer this question. When and to whom did R & J Rolling Acres, LLC or their agents, contact employees of the Buffalo County Zoning Department.? As you may be aware, their application, the subject of the Public Hearing on February 2, 2012, specifically stated that they planned to haul 80 truckloads of sand, Monday through Friday, to the south on State Highway 88. At the hearing, however, those in attendance were informed by their agent that they needed to haul 150 loads every day, seven days a week, and 24 hours each day.
- 5) Also please answer this question: When and how (telephone, email, in writing or verbally) were the members of the Board of Adjustment informed of the changes to the R & J Rolling Acres permit? I am requesting any and all public records of any communications between the Buffalo County Zoning Department and members of the Buffalo County Board of Adjustment concerning these permit changes.

Please be aware that the Open Records law defines "record" to include information that is maintained on paper as well as electronically, such as data files and unprinted emails. Wis. Stat. § 19.32(2).

Please also be aware that the Open Records law “shall be construed in every instance with the presumption of complete public access consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied.”

If you deny my request, the law requires you to do so in writing and state what part of the law you believe entitles you to deny my request. Wis. Stat. § 19.35(4)(a).

The Open Records law states that you may charge for "the actual, necessary and direct cost" of locating records, if this exceeds \$50, and for photocopies.

The Wisconsin Department of Justice advises that copying fees under the Open Records law should be “around 15 cents per page and that anything in excess of 25 cents may be suspect.”

Please advise me before processing this request if the total cost will exceed \$100.

As you know, the law requires you to respond to this request “as soon as practicable and without delay.”

If you are not the records custodian for this information, please forward this request to the appropriate person. Also, please let me know if I can clarify or refine this request.

Thank you for your time and consideration.

Sincerely,

Gary LeMasters
W1194 Yaeger Valley Road
Cochrane, WI 54622

Office of County Administration



Personnel Advisor

Betty Sessions

Del D. Twidt

Buffalo County Board of Supervisors

407 South Second Street PO Box 494

Alma, WI 54610-0494

Email: del.twidt@buffalocounty.com

Phone (608) 685-6234 Fax (608) 685-6300

Administrative Assistant: Lisa Schuh

Financial Advisor

Kathy Kosidowski

February 17, 2012

Mr. Gary LeMasters
W1194 Yaeger Valley Road
Cochrane, WI 54622

RE: Records Request Dated February 10, 2012

Mr. LeMasters:

Enclosed please find the public records as requested for the Conditional Use Permit application for R&J Rolling Acres, LLP, inclusive of any records as to changes made to the original of said application. This response also includes any public records of communications between the Buffalo County Zoning Department and the members of the Buffalo County Board of Adjustment concerning permit changes relative to said application.

Concerning your items numbered 4) and numbered 5), in the first sentence ending with a question mark in item 5), legal counsel has advised there is no request of a record as defined in Wisconsin Statute 19.32 (2). We therefore, respectfully deny providing any records from that particular request based on that reason. The balance of your request for item 5) is complied with in the public records provided in this packet.

Also enclosed please find an invoice to cover the cost of photocopies at the established Buffalo County rate of \$.25 per copy, plus mailing costs (postage). Please remit the balance due at your earliest convenience.

Respectfully;

Del D. Twidt, Chair
Buffalo County Board of Supervisors

Cc Buffalo County Board of Adjustment
Mr. Paul van Eijl
Mr. Chad Dewyre



gary lemasters <yaeger.valley@gmail.com>

records request clarification

5 messages

gary lemasters <yaeger.valley@gmail.com>

Tue, Feb 21, 2012 at
1:48 PM

To: Del Twidt <del.twidt@buffalocounty.com>

Bcc: Mike O'Connor <mike@haven2.com>

Del,

Thanks for the prompt response to my public records request dated February 10, 2012. I will be posting the information to a public website, along with my observations, to demonstrate my concern about the apparent lack of transparency in the conditional use permitting process.

I want to give you the opportunity to correct my I understanding of the records you provided before I make a fool of myself. It may be that I did not use the correct legalese in my request, such as "Extant", or "Notwithstanding", "Contemporaneous" or "add hominy"!

In my request, I was referring to documents that Buffalo County considers to be public records, according to the definition in Ch. 19.32, Wis. Stats.

"Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

These are my observations from the records you provided.

1. There are no written communications, on Buffalo County letterhead or otherwise, about the R & J Rolling Acres Conditional Use Permit (CUP), aside from your reply to my public records request;

2. There is only one email communication from Buffalo County with anybody about the R & J Rolling Acres CUP;
2. There are no written communications between the Zoning Department and the Board of Adjustment;
3. The prepared testimony submitted to the Board of Adjustment and the Zoning Department at the February 2, 2012 Public Hearing by myself and others are not public records, and;
4. The audio recording of the Public Hearing is not a public record.

I really believe in open government. Based on your response to my request, it appears that the Zoning Department conducts most of its business over the telephone and does not keep any records of these communications.

Are employees of Buffalo County required to follow any procedures in documenting their contacts with the regulated public?

Thanks for your continued cooperation.

Sincerely,

Gary

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Gary LeMasters
W1194 Yaeger Valley Rd.
Cochrane, WI 54622-8162
608-626-3151 home
715-533-5939 cell
Yaeger.valley@gmail.com

Del Twidt <del.twidt@buffalocounty.com>

Wed, Feb 22, 2012 at
2:12 PM

To: gary lemasters <yaeger.valley@gmail.com>

Cc: Chad DeWyre <chad.dewyre@buffalocounty.com>, Tom.Clark@da.wi.gov,
Paul Van Eijl <paul.vaneijl@buffalocounty.com>



gary lemasters <yaeger.valley@gmail.com>

records request clarification

Del Twidt <del.twidt@buffalocounty.com>

Wed, Feb 22, 2012 at
2:12 PM

To: gary lemasters <yaeger.valley@gmail.com>

Cc: Chad DeWyre <chad.dewyre@buffalocounty.com>, Tom.Clark@da.wi.gov,
Paul Van Eijl <paul.vaneijl@buffalocounty.com>

Gary,

I reviewed the BOA file this morning for the R&J application. As of your records request received date of February 13, 2012, the documents I found in that file today are the same as those that have already been forwarded to you. In addition, I spoke again with Chad to be certain that he did not have any emails regarding the R&J application from that date or before – he indicated he did not. I also asked him about “prepared testimony” submitted at the BOA meeting – Chad indicated that the “prepared testimony” documents he received (during the hearing) were presented to him during the testimony /comments portion of the Klevgard application and thus, they are in the Klevgard file.

On your 4) item, the recording of the public hearing is indeed available for the public to listen to – it is on a computer in the Zoning office. It is a large file. I thought that you recorded the BOA meeting of Feb 2 with your own device – perhaps I was mistaken. If you still want a copy of the hearing, I can have IT burn a CD of the hearing for you.

Hope that answers your concerns. I will be out of the office on business the remainder of the week. If you require any additional information, please contact Paul or Chad.

March BOA packets should be available and mailed later this week.

Thanks.

Del

From: gary lemasters [mailto:yaeger.valley@gmail.com]