

FILED
DEBRA VAN PELT
ISLAND COUNTY CLERK
2023 FEB 13 AM 10:43

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR ISLAND COUNTY

ERIC HOOD,

Plaintiff,

vs.

CITY OF LANGLEY,

Defendant.

Case No. 21-2-00226-15

ORDER GRANTING
DEFENDANT'S MOTION FOR
JUDICIAL REVIEW AND
DISMISSAL

(RCW 42.56.550)

JUDGMENT SUMMARY

1. Judgment Creditor: City of Langley, Washington
2. Judgment Creditor's Attorney: Jessica L. Goldman, Esq., Summit Law Group
3. Judgment Debtor: Eric Hood
4. Judgment Debtor's Attorney: William John Crittenden, Esq.
4. Amount of Judgment: \$ -0-
5. Amount of Interest Owed to Date of Judgment: \$-0-
6. Total of Taxable Costs and Attorney Fees: \$200.00
 - a. Costs -0-
 - b. Attorney's fees \$200.00

This matter came before the Court on the *Defendant's Motion For Judicial Review And Dismissal Pursuant to RCW 42.56.550*. The parties submitted oral argument on December 16, 2022. In addition to the arguments of counsel, the Court considered the records and files herein, the pleadings filed in this case and the following material submitted in support of and in opposition to defendant's motion:

Order Granting
Motion to Dismiss

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- 1
- 2 1. Defendant 's Motion For Judicial Review And Dismissal Pursuant To RCW
- 3 42.56.550(3);
- 4 2. Declaration of Tara McDivitt in Support of Motion for Judicial Review;
- 5 3. Declaration of Monica Felici in Support of Motion for Judicial Review;
- 6 4. Declaration of Darlene Baldwin in Support of Motion for Judicial Review;
- 7 5. Declaration of Jessica Goldman in Support of Motion for Judicial Review;
- 8 6. Declaration of Scott Chaplin in Support of Motion for Judicial Review;
- 9 7. Amended Declaration of Eric Hood dated July 19, 2022;
- 10 8. Supplemental Declaration of Eric Hood dated December 2, 2022;
- 11 9. Plaintiff's Response to Motion for Judicial Review; and
- 12 10. Defendant's Reply in Support of Motion for Judicial Review and Dismissal

13 For the reasons stated in the Court's letter ruling dated and filed herein on January
14 24, 2023, a copy of which is attached to this Order and Judgment, it is

15 ORDERED that the defendant's motion to dismiss is granted. It is further

16 ORDERED that the plaintiff, Eric Hood's complaint against defendant, City of
17 Langley be, and it is hereby dismissed, with prejudice. It is further

18 ORDERED that the defendant is awarded judgment against the plaintiff in the
19 amount of \$200.00 for statutory attorney's fees.

20 Dated this 13th day of February, 2023.

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Christon C. Skinner, Judge
Island County Superior Court

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Approved for entry
as to form:

Summit Law Group, PLLC
Attorneys for City of Langley

**Signature authorized via video
appearance**

By: _____
Jessica Goldman, WSBA #21856

Approved for entry
as to form:

By: _____
William John Crittenden, WSBA #22033
Attorney for Eric Hood

Order Granting
Motion to Dismiss

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ISLAND COUNTY CLERK
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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR ISLAND COUNTY

Law & Justice Facility, 101 NE 6th St, PO Box 5000, Coupeville WA 98239-5000
Phone: (360) 679-7361 Fax: (360) 679-7383

CHRISTON C. SKINNER
Judge
CAROLYN CLIFF
Judge
MEGAN FRAZIER
Court Administrator

January 24, 2023

Via Email Only

William John Crittenden, Esq.
8915 17th Ave. NE
Seattle, WA 98115-3207

bill@billcrittenden.com

Jessica L. Goldman, Esq.
Summit Law Group
315 5th Ave. South, Ste. 1000
Seattle, WA 98104-2682

jessicag@summitlaw.com

Ref: Island County Superior Court case no. 21-2-00226-15

Eric Hood, plaintiff vs. The City of Langley, defendant
Defendant's Motion For Judicial Review and Dismissal

21-2-00226-15
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Court Decision
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Introduction

This is a Public Records Act ("PRA") case brought against the defendant, City of Langley by plaintiff, Eric Hood. In his complaint filed June 23, 2021, the plaintiff alleges, among other things, that:

On various dates in January of 2020, including January 30, 2020, Eric Hood ("Hood") requested public records from the City of Langley ("City").

As of the date of this complaint, the City has not provided the first installment or any other installments of records responsive to Hood's January, 2020, records request.

The City produced no records responsive to Hood's January, 2020 records [sic] within 30 business days after its March 18, 2020, email in which it informed Hood it had extended the response date.

In its answer to the complaint, the City of Langley acknowledges the public records requests made by the plaintiff but contends that, in each instance when a request was made a response was provided within the five day time frame required by the applicable statute.¹ Further the defendant argues that it properly extended the response date for providing the requested records and was required to do so "numerous additional times" after its March 18, 2020 correspondence and extension notice to plaintiff. The primary reason given for the extensions was related to "the COVID 19 pandemic."

In connection with this matter, the defendant filed a Motion for Judicial Review and Dismissal pursuant to RCW 42.56.550(3) and CR 7(b). The Court heard oral argument on the motion on December 16, 2022, and took the matter under advisement thereafter. In arriving at this memorandum decision, the Court considered the pleadings filed in this case and the following documents specifically filed in connection with the defendant's motion:

1. Defendant's Motion for Judicial Review and Dismissal;
2. Declaration of Tara McDivitt in Support of Motion for Judicial Review;
3. Declaration of Monica Felici in Support of Motion for Judicial Review;
4. Declaration of Darlene Baldwin in Support of Motion for Judicial Review;
5. Declaration of Jessica Goldman in Support of Motion for Judicial Review;
6. Declaration of Scott Chaplin in Support of Motion for Judicial Review;
7. Amended Declaration of Eric Hood dated July 19, 2022;
8. Supplemental Declaration of Eric Hood dated December 2, 2022;
9. Plaintiff's Response to Motion for Judicial Review; and
10. Defendant's Reply in Support of Motion for Judicial Review and Dismissal etc.

In its motion to dismiss, the defendant argues that it provided "timely and proper" responses to each of the plaintiff's public records requests submitted in January of 2020. Additionally, the defendant contends that the plaintiff abandoned his records request when he failed to pay the required fees related to the January, 2020 requests and, as a result, the defendant had no further obligation to continue responding until the lawsuit which is the subject of this motion was filed in June of 2021.

In response to the Motion to Dismiss, the plaintiff argues that the City failed to properly respond to his records requests and that it produced no records responsive to the January, 2020, requests. The plaintiff also responds to the defendant's

¹ RCW 42.56.520(1) requires responses to public records requests to be made within "five business days" of the agency's receipt of a public records request.

motion by contending that he never abandoned his request for the public records and that no one informed him that failing to pay the fees charged would result in the requests being treated as "abandoned." The plaintiff also contends that he never received the City's email dated May 7, 2020, in which it acknowledged his records request and quoted an amount due for scanning/electronic records charges.

Facts

The plaintiff submitted multiple public records requests to the defendant in January of 2020. Additionally, during the month of January, 2020, Mr. Hood modified, withdrew and enlarged his requests several times. For example, on January 29, 2020, Mr. Hood submitted a letter to the City in which he stated that he was withdrawing PRR Nos. 1, 3, 6, 7, 8, and 11. At the same time, he listed 42 new records requests. On January 30, 2020, Mr. Hood wrote to the City, attaching an updated request and asking that the City disregard his letter from the prior day. In this correspondence, Mr. Hood again withdrew PRR Nos. 1, 3, 6, 7, 8, and 11 and listed an additional 43 new records requests.

Mr. Hood's public records requests to the City in January of 2020 were, at best, confusing and vague. In another PRA case initiated by Mr. Hood against the City of Langley (Island County Superior Court Case number 19-2-00611-15), Judge Vickie I. Churchill issued a memo decision related to a discovery dispute between the parties. In that letter dated June 3, 2020, Judge Churchill specifically concluded that the January, 2020 records requests submitted by Mr. Hood to the City were "vague and ambiguous." Nevertheless, the defendant responded to the plaintiff's January, 2020 requests as required by Washington law.

A response to a Public Records Act request is due "within five business days." RCW 42.56.520(1). Based upon the Court's review of the declarations filed by the parties in support of and in response to the City's Motion, the evidence establishes that the City complied with this provision on each occasion that the plaintiff submitted either new or modified requests during the month of January, 2020. A summary of that evidence and the basis of the Court's findings is described below.

On January 8, 2020, plaintiff requested eight separate records from the defendant. The request was submitted via email to the City of Langley's clerk, city council and mayor. On Saturday, January 11, 2020, the plaintiff made additional email requests for public records directed to the mayor, council and clerk in which he identified a total of 12 public records that he wanted produced. That request replaced the plaintiff's request for records submitted on January 8, 2020.² On Monday, January 13, 2020, the defendant responded in the form of an email from

² In the email, plaintiff stated: "Please see below, updated request that corrects inadvertent errors and adds requests. Please disregard my request dated January 8, 2020."

the City of Langley's Clerk, Debbie Mahler. In that email, Ms. Mahler advised the plaintiff that the request would be fulfilled within "30 business days."

On Tuesday, January 14, 2020, plaintiff submitted another records request to the defendant ("request #13"). That same day, Ms. Mahler responded to the request and advised Mr. Hood that there were no records "responsive" to his request #13.

On January 21, 2020, plaintiff enlarged his fourth records request. The defendant responded on January 22, 2020. In that email response, Deputy Clerk, Roberta Happel acknowledged receipt of the plaintiff's January 21, 2020, request and advised Mr. Hood that the City would contact him about the request within "the next 30 business days or sooner."

On January 29, 2020, Mr. Hood sent an email to the City's public records officer/clerk and to Debbie Mahler and to the City Council. In that correspondence, he withdrew his earlier records requests that he identified as "requests numbered 1,3,6,7,8, and 11." The January 29 email also included 43 new public records requests. The following day, January 30, 2020, Mr. Hood sent another email to the City Clerk, Ms. Mahler, the records officer and the City Council asking them to "disregard the request I sent yesterday... ."

On Friday, January 31, 2020, Ms. Happel responded to Mr. Hood's January 30, 2020, email request. In that email, Ms. Happel acknowledged the January 30, 2020, email and asked for clarification of Mr. Hood's latest request. Ms. Happel appended a letter to the email that set out her understanding of the status of Mr. Hood's records requests as it stood on January 31, 2020. Ms. Happel also advised Mr. Hood that "[d]ue to the volume of your requests it will take at least 45 days to completely fulfill your requests." She also alerted Mr. Hood that there will be charges associated with the transmission of electronic records.

Mr. Hood responded in an email dated Sunday, February 2, 2020, and confirmed that Ms. Happel's "understanding" of his most recent records request was correct.

A number of emails were exchanged between Ms. Happel and Mr. Hood regarding the February 2, 2020, email and whether it was received. Ms. Happel confirmed in several emails that the February 2, 2020, email from Mr. Hood had been received.

On March 18, 2020, Ms. Happel emailed Mr. Hood and advised him that the time frame for the first installment of the City's responses to his January, 2020 public records requests would have to be extended by "an additional 30 business days" because of "circumstances surrounding the Coronavirus." A similar email was sent to Mr. Hood on April 28, 2020, advising him that, due to the extensive nature of his public records request and "due to the Covid-19 emergency," the City needed to extend its response time by an additional seven business days.

On May 7, 2020, Ms. Happel advised Mr. Hood (by email) that the first installment of the City's response to his records request (100 pages) was ready and would be delivered upon his payment of the previously referenced electronic records fee. The fee was \$10.00. However, for some reason, the May 7, 2020, email sent to Mr. Hood's regular email address (ericfence@yahoo.com) was not immediately delivered. Ms. Happel received an automated message from the mail server (whidbey.net) advising that the May 7, 2020, email to Mr. Hood had been in the delivery "queue" for more than 72 hours. The reason given was that messages from an IP address identified as "209.166.65.58" were temporarily deferred "due to user complaints."

The automated message also stated:

No action is required on your part. Delivery attempts will continue for some time and this warning may be repeated at intervals if the message remains undelivered. Eventually the mail delivery software will give up, and when that happens, the message will be returned to you.

According to the declaration of Tara McDivitt, the May 7, 2020, email was never "returned" to the City nor did the City receive a message advising that the mail server software had "given up" in its attempts to deliver the May 7, 2020, email to Mr. Hood's email address.

Ms. Happel emailed Mr. Hood again on May 11, 2020, and advised him of the email issue and provided him with a copy of the May 7, 2020, email. There was no issue with the delivery of this email. Ms. Happel also sent Mr. Hood a letter via the U.S. Mail on May 19, 2020. The letter included a notice to Mr. Hood that the City's response to his requests was going to be extended by another 30 business days due to Covid-19 and the governor's extended "stay at home" order in effect at that time.

Mr. Hood responded to the May 19, 2020, letter using the same email address (ericfence@yahoo.com). He requested copies of the notices related to the temporarily undeliverable email. Ms. Happel provided the requested information to Mr. Hood in an email dated May 27, 2020. There were no issues with the delivery of this email. In that May 27, 2020, email, Ms. Happel asked Mr. Hood to confirm that he received the original email dated May 7, 2020.

Mr. Hood did not remit payment for the electronic records fee of \$10.00. He did not respond to Ms. Happel's request that he confirm receipt of the May 7, 2020, email. And, he did not communicate again with the City about the January, 2020 records request until April 29, 2021, when he served the City's Clerk with the summons, complaint and declaration that were filed in this case on June 23, 2021.

Approximately 11 months transpired between the date of the City's last correspondence to Mr. Hood (May 27, 2020) and the date that he served the summons and complaint on the City alleging violations of the Public Records Act (April 29, 2021).

Although Mr. Hood denies receiving the City's May 7, 2020 email requesting payment of the electronic records fee, the record clearly establishes:

1. That the May 7, 2020, email sent to Mr. Hood's regular email address was delayed but not returned as "undeliverable;"
2. The same information sent to Mr. Hood in the May 7, 2020, email was re-sent on May 11, 2020, via email and there were no delivery issues with that email.
3. The City sent a letter via the US Mail system to Mr. Hood on May 19, 2020, providing information about the status of the records request and the reasons why the time for its response was being extended for another 30 business days.

After Mr. Hood filed the current lawsuit against the City on June 23, 2021, the City treated this action as a request to renew the January, 2020 records request that had been previously abandoned. Thereafter, the City conducted a search of the various places where records were likely stored and began providing Mr. Hood with installments of the requested documents. The action taken by the City in response to the "renewed records request" arising from Mr. Hood's decision to file the complaint in this case, is detailed in the declarations of Tara McDivitt and Monica Felici filed in connection with the pending motion to dismiss. The City produced the requested records after conduction a reasonable search of its various record repositories.

Analysis

As noted above, the City seeks "judicial review" of its actions taken in response to Mr. Hood's January, 2020, public records request. In connection with this review, the City seeks dismissal of the plaintiff's lawsuit. Under the PRA a trial court is empowered to review agency actions "taken or challenged" under RCW 42.56.030 through 42.56.520 and resolve factual disputes "based solely on affidavits." RCW 42.56.550(3). A trial court is also authorized to use these written materials to make credibility findings, weigh evidence, and resolve conflicting testimony, just as it would in a trial with live testimony. This procedure is not the same as a motion for summary judgment brought pursuant to CR 56.

RCW 42.56.070(1) directs government agencies to disclose public records upon request unless a specific exemption in the PRA or another statute applies that exempts or prohibits disclosure of specific information or records. *Ameriquet*

Mortg. Co. v. Office of Att'y Gen., 177 Wn.2d 467, 485-86, 300 P.3d 799 (2013). Consistent with the PRA's purpose, RCW 42.56.030 expressly requires that the PRA be "liberally construed and its exemptions narrowly construed ... to assure that the public interest will be fully protected." *Cortland v. Lewis Cnty.*, 14 Wn. App. 2d 249, 258, 473 P.3d 272, 277 (2020); *rev. denied*, 196 Wn.2d 1039 (2021).

Upon receipt of request for public records, government agencies are required to conduct an adequate search for those records that is reasonably designed or calculated to uncover all relevant documents. An inadequate search for the requested records is comparable to a denial.

The adequacy of a search is judged by a standard of reasonableness, that is, the search must be reasonably calculated to uncover all relevant documents. *Weisberg*, 705 F.2d at 1351. [Full citation: *Weisberg v. U.S. Dep't of Justice*, 240 U.S.App. D.C. 339, 745 F.2d 1476, 1485 (1984)] What will be considered reasonable will depend on the facts of each case. *Weisberg*, 705 F.2d at 1351. When examining the circumstances of a case, then, the issue of whether the search was reasonably calculated and therefore adequate is separate from whether additional responsive documents exist but are not found. *Truitt v. Dep't of State*, 283 U.S.App. D.C. 86, 897 F.2d 540, 542 (1990); *Meeropol v. Meese*, 252 U.S.App. D.C. 381, 395, 790 F.2d 942, 956 (1986) ("a search need not be perfect, only adequate").

Neighborhood All. of Spokane Cnty. v. Spokane Cnty., 172 Wn.2d 702, 720, 261 P.3d 119, 128 (2011)

The PRA also directs agencies to handle requests in a way that "prevent[s] excessive interference with other essential functions of the agency." RCW 42.56.100. The PRA does not require agencies to provide requesters a detailed explanation for their time estimates. *Ockerman v. King County. Dep't of Dev. and Env't. Servs.*, 102 Wn. App. 212, 217-18, 6 P.3d 1214 (2000). The PRA only requires an agency to provide a "'reasonable' estimate, not a precise or exact estimate, recognizing that agencies may need more time than initially anticipated to locate the requested records." *Andrews v. Wash. State Patrol*, 183 Wn. App. 644, 652, 334 P.3d 94 (2014).

The burden of proof is on the agency to establish that the refusal to permit inspection or copying is in accordance with a statute that exempts or prohibits disclosure. RCW 42.56.550(1). Additionally, agencies may meet their burden of proof to establish compliance with the PRA solely by providing "reasonably detailed, nonconclusory affidavits submitted in good faith." *Neighborhood All. of Spokane Cnty. v. Spokane Cnty.*, *supra* at 721.

In the present case, the City did not refuse to provide the records requested by Mr. Hood. Despite the vague and confusing nature of Mr. Hood's various public records

requests made in January of 2020, the evidence submitted by the City demonstrates that it conducted a reasonable search of its records and that located at least 100 pages of documents responsive to the request in May of 2020. In her May 7, 2020 email addressed to Mr. Hood, Roberta Happel advised Mr. Hood as follows:

Mr. Hood,

We have a 100 pages of responsive scanned documents ready for you as a first installment for your Public Records Request appended above, and will plan to provide you an additional installment within the next 30 business days. Due to the extended Stay-At-Home Order, this could be extended but we will continue to communicate with you about any changes should they occur.

As shown on the attached Public Records Request form, the fee is \$.10 per page for scanned documents and payable in advance. Please submit your paying in the amount of \$10.00 as follows:

*Payable to: The City of Langley
Mail to: PO Box 366
Langley, WA 98260*

Or

You may drop your payment in our drop box at City Hall (Due to the extended Stay-At-Home Order our Administrative Office remains closed to the public).

In 2017 the Washington legislature amended the Public Records Act to allow agencies to impose a "reasonable charge" for providing copies of records pursuant to PRA requests. RCW 42.56.120 (effective July 28, 2017). The amended statute also provides that "[i]f an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request." RCW 42.56.120(4). Additionally, the legislature compelled the attorney general's office to publish advisory model rules for state and local agencies regarding best practices for fulfilling PRA requests. RCW 42.56.570. Pursuant to this directive, the attorney general's office promulgated WAC 44-14-04005, which advises agencies that "[i]f a requestor fails to claim or review the records or an installment after the expiration of thirty days, an agency is authorized to stop assembling the remainder of the records or making copies."

Since the PRA was amended to allow for collection of fees, there has been limited legal analysis on the issue of PRA request abandonment by nonpayment. The only

published opinion fully discussing this issue is the above cited, Division II case of *Cortland v. Lewis County*, 14 Wash. App. 2d 249, 252. There, Lewis County had been providing a PRA requestor with installments of records in response to his request when the PRA amendment took effect. *Id.* When Lewis County informed the requestor that his latest installment would be available upon payment of copying fees, he did not respond directly but instead filed suit. *Id.* Lewis County then informed him that if he did not pay the copying fees within 30 days, his PRA request would be closed and the county would stop searching for or compiling records.

Division II began its analysis of the alleged PRA violations in *Cortland* by establishing that a prerequisite for a PRA lawsuit is denial of access to records. The court explained that “[d]enial of public records occurs ‘when it reasonably appears that an agency will not or will no longer provide responsive records.’” *Cortland*, 14 Wash. App. 2d at 258 (quoting *Hobbs v. Wash. State Auditor's Office*, 183 Wn. App. 925, 936 (2014)). There, the court concluded that no denial had taken place. *Id.* Instead, the requestor was given access to the records but chose to take no action to claim them. Citing WAC 44-14-04005, the court concluded that the requestor in *Cortland* had thirty days after being notified of copying costs to pay the fee and collect the records. At the expiration of thirty days, the agency was authorized to stop further assembling installments or making copies and could close the PRA request.

Similarly, after he was advised that 100 pages of documents responsive to the PRA request were available upon payment of a \$10.00 fee, Mr. Hood chose to take no further action until he served the summons and complaint on the City in April of 2021, nearly a year after the documents were made available to him.

The *Cortland* court did not address the fact that WAC 44-14-04005 is a non-binding advisory regulation. However, in addition to citing the WAC as authority, the *Cortland* court cited the PRA itself. Since its 2017 amendments, the PRA has provided that “[i]f an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.” RCW 42.56.120(4). It is not clear from the opinion whether the *Cortland* court was creating a binding rule of a thirty-day deadline based on the attorney general’s suggestion, or was simply citing the regulation as an example of a reasonable deadline for closing out PRA requests. Nonetheless, the holding clearly stands for the proposition that once a requestor is notified that an installment is available upon payment of a copying or scanning fee, the ball is in the requestor’s court to pay the fee in order to move forward. The *Cortland* opinion makes clear that, at a minimum, an agency is authorized to wait for payment an installment of records before continuing to respond to a particular PRA request.

In the present case, the City cites WAC 44-14-04005 as providing authority for a thirty-day deadline. However, the City acknowledges that it had not adopted the attorney general's recommendations as part of the City's municipal code at the time it was dealing with Mr. Hood's request. Regardless of the WAC's applicability, though, Mr. Hood was placed on notice that he owed a scanning fee before he could receive an installment of the requested records. And, for some reason, he did not pay the fee nor follow up to secure delivery of the documents that were made available.

Accordingly, under RCW 42.56.120(4) and the reasoning in *Cortland*, supra, the Court concludes that Mr. Hood abandoned his January, 2020, PRA requests to the City of Langley by failing to pay the requested fee within a reasonable time. Further, Mr. Hood made no effort to respond to the City's recent communications with him prior to serving and filing the summons and complaint in this 2021 lawsuit.³

The City did not refuse to provide Mr. Hood with the documents identified in his January, 2020, request. Upon receipt of his complaint filed in this case in connection with the January, 2020 records requests, the City properly treated that complaint as a renewal of the records request and began the process of locating and providing the records anew. They did so, notwithstanding the failure by Mr. Hood to pay the electronic records fee previously demanded. The City continued providing installments of the records requested and Mr. Hood eventually paid the fees associated with the production of those records.

Compliance with the records request was completed On March 14, 2022, when the City emailed the last installment of documents to Mr. Hood.

In summary, the Court makes the following findings and conclusions:⁴

1. After receiving Mr. Hood's public records request in January of 2020, the City of Langley responded in a timely manner and provided reasonable estimates of the time it would need to search for the requested records. This was done over the course of several email and mail communications with Mr. Hood.
2. The City made a good faith effort to conduct a reasonably thorough search of its records for the documents requested by Mr. Hood.

³ Mr. Hood served the City with the summons, complaint and his declaration on April 29, 2021. He formally filed the summons, complaint and declaration with the court on June 23, 2021.

⁴ The Court is mindful that findings and conclusions made at the trial court level are not binding on a reviewing court and that "agency actions under the PRA are subject to *de novo* review." RCW 42.56.550(3).

3. The City did not fail or refuse to search for and produce the records requested by Mr. Hood in his January, 2020, PRA request.
4. Mr. Hood abandoned his records request after he failed to pay the \$10.00 fee identified in the May 7, 2020 email from Roberta Happel. Further, abandonment was evidenced by the fact that Mr. Hood did not communicate with the City about his records request after he sent the May 21, 2020 email to Ms. Happel (exhibit 15, Decl. of Tara McDivitt).

After reviewing the record and making the aforementioned findings, the Court is granting the defendant's motion to dismiss the plaintiff's complaint.

Any issues related to fees or costs as may be permitted under the provisions of the Public Records Act, shall be addressed in a separate hearing. Counsel for the defendant shall prepare and present a proposed final order as provided in CR 54(e).



Christon C. Skinner
Judge