

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

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STEVEN R. HARRY,

Plaintiff,

Case No. 18-

-CZ

v.

Hon.

CITY OF LANSING,

Defendant.

\_\_\_\_\_  
Jeffrey P. Ray (P31098)  
JEFFREY P. RAY, P.C.  
Attorneys for Plaintiff  
2500 Lake Lansing Road, Suite A  
Lansing, MI 48912  
(517) 372-5700  
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**COMPLAINT UNDER MICHIGAN FREEDOM OF INFORMATION ACT**

**Parties, Jurisdiction and Venue**

1. Plaintiff, Steven R. Harry (hereinafter: "Harry"), is a resident of the city of Lansing, county of Ingham, state of Michigan.
2. Defendant, City of Lansing (hereinafter: "Lansing"), is a Michigan municipal corporation whose offices are located at 124 W. Michigan Avenue, city of Lansing, county of Ingham, state of Michigan.
3. That this is an action seeking to compel disclosure of public information and documents pursuant to the Michigan Freedom of Information Act (hereinafter: "FOIA"), Act 442 of 1976, MCL 15.231 et seq.

4. That jurisdiction is before this circuit court pursuant to MCL 15.240 (1)(b).
5. That venue is proper in this court pursuant to MCL 15.240 (4).

### **Factual Allegations**

6. Plaintiff restates each and every allegation contained in paragraphs 1-5, above, as if more fully set forth herein.

7. On or about September 21, 2017, Harry requested “straight life pension amounts” for twenty (20) public service officers (police and fire) retirees from Lansing.

8. On or about October 9, 2017, Lansing granted the request by providing Harry a list of the twenty (20) retirees, but the list was for “annual pension amounts”.

9. On or about October 17, 2017, Harry attempted to revise or amend his previous FOIA request, acknowledging that the term “straight life pension” is not used in the police and fire pension system. He amended his FOIA request asking for “full retirement allowance”.

10. After discussions between Harry and the Lansing designated FOIA officer, Harry agreed to make his revised request a new FOIA request and did so on December 4, 2017. In addition, he attached to his request a sample form showing the data he wished to receive.

11. On December 11, 2017, Lansing denied his FOIA request citing an exemption from disclosure for “information regarding the calculation of actual or estimated retirement benefits for members of the system...” under MCL 38.1140h.

12. On December 11, 2017, Harry appealed the denial to Councilwoman Spitzley, acting City Council President.

13. On December 18, 2017, Spitzley denied Harry’s appeal.

14. On January 3, 2018, Harry renewed his FOIA request to Lansing asking for pension calculation sheets for twenty (20) police and fire retirees, with all calculation details

redacted, leaving only the full retirement allowance and the retiree's name, information requested in his previous FOIA request of December 4, 2017.

15. On January 26, 2018, Lansing denied the FOIA request stating that Lansing had already provided the same information in the FOIA request 18-095 which was dated September 21, 2017 and provided by Lansing on October 9, 2017.

16. On January 26, 2018, Harry appealed said denial to Mayor Andy Schor, who, in turn, referred it back to the City Attorney designee.

17. On February 2, 2018, City Council President Wood denied Harry's appeal.

18. This action is commenced within 180 days of the denial of his appeal and is timely pursuant to MCL 15.240(1)(b).

19. Harry seeks an order of this Court as finding that the City of Lansing's denials of his FOIA request(s) are arbitrary and capricious, that Lansing, after basically furnishing information that it chooses to provide and then citing exemptions for a similar request is wrongful and that the information being sought is not exempt from such disclosure.

20. Harry also seeks reimbursement for costs, attorney fees, and a finding that he is entitled to damages under MCL 15.240(7) in an appropriate amount.

WHEREFORE, Plaintiff seeks relief from this Court in the form of Orders:

A. Requiring the Defendant, City of Lansing, to disclose and/or provide inspection of the retirement pension calculation sheets depicting the "full retirement allowance" for twenty (20) police and fire retirees in the City pension system; and,

B. Requiring the Defendant, City of Lansing, to reimburse Harry for his costs, including reasonable attorney fees incurred in this matter; and,

C. A finding that the Defendant's denials are arbitrary and capricious, and that Harry is entitled to damages under MCL 15.240 (7) and a civil fine of \$1,000.00 and, in addition to compensatory damages, \$1,000.00 for punitive damages; and,

D. A finding that the Defendant's denials were tantamount to willfully and intentionally failing to comply with the FOIA or otherwise in bad faith and that the City of Lansing should be ordered to pay a civil fine of not less than \$2,500.00 and not more than \$7,500.00 for each such occurrence.

Dated: June 7, 2018

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