

ORIGINAL

IN THE SUPREME COURT OF OHIO

Original action in mandamus; case no. 2010-2029

STATE ex rel. DATA TRACE INFORMATION SERVICES, LLC, et al.,

Relators,

-v-

RECORDER OF CUYAHOGA COUNTY, OHIO,

Respondent.

**Relators' Volume 2 of Evidence: stipulation, affidavits of Karl Idsvoog,
Michael Carsella, David Darmstadt, and related exhibits**

David Marburger (0025747)
Michael Mumford (0073931)
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Cleveland, Ohio 44114-3485
Tele: 216/621-0200
Fax: 216/696-0740
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mmumford@bakerlaw.com

Attorneys for Relators

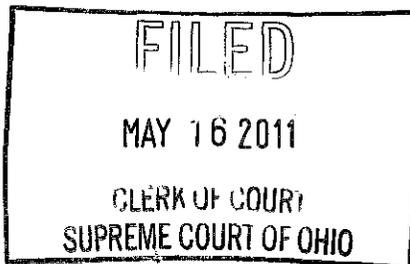


Table of Contents to Relators' Volume 2 of Evidence

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G	Stipulation of the parties
1	<u>Exhibit 1 to stipulation</u> : CD of source code for Recorder's website (a) when Patrick O'Malley was Recorder and then, (b) when Lillian Green became Recorder.
2	<u>Exhibit 2 to stipulation</u> : Ohio Attorney General's public records policy upon which the Recorder had based its public records policy before changing it on Jan. 10, 2011.
4	<u>Exhibit 4 to stipulation</u> : Exhibit 4 to deposition transcript of Lillian Greene (public records policy).
5	<u>Exhibit 5 to stipulation</u> : Exhibit 5 to deposition transcript of John Kandah (public records policy as changed on Jan. 10, 2011).
6	Affidavit of Karl Idsvoog
7	Chart listing Ohio counties that provided CDs to Karl Idsvoog and the fee charged by each county.
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10	Letter dated Sept. 16, 2009 from Lillian Greene to D. Darmstadt.
11	Affidavit of Michael Carsella of Property Insight.
12	Michael Carsella's request (sued upon) – Oct. 5, 2010.
13	Michael Carsella's letter to county following-up his request.

IN THE SUPREME COURT OF OHIO

Case No. 10-2029

Original Action in Mandamus

State ex rel. Data Trace Information Services, LLC, et al.,

Relators,

v.

Recorder of Cuyahoga County, Ohio,

Respondent.

**Cuyahoga County Recorder's Response To
Relators' Interrogatories**

David T. Movius (0070132)

Counsel of Record

Matthew J. Cavanagh (0079522)

MCDONALD HOPKINS LLC

600 Superior Avenue, E., Ste. 2100

Cleveland, Ohio 44114

T 216.348.5400

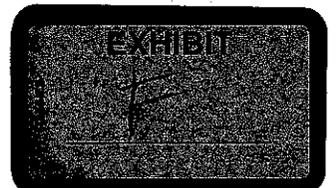
F 216.348.5474

dmovius@mcdonaldhopkins.com

mcavanagh@mcdonaldhopkins.com

Counsel for Respondent

Cuyahoga County Recorder



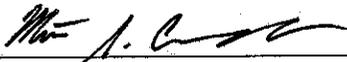
6. If the amount of money stated in response to interrogatory no. 2 is an amount different than the amount stated in response to interrogatory no. 3:

itemize how the respondent calculated the amount of money stated in response to interrogatory no. 3.

Response:

No money was stated in response to Interrogatory No. 2. To the extent this interrogatory meant to refer to Interrogatory Nos. 3 and 4, the amounts are the same.

Objections by:



Matthew J. Cavanagh
Counsel for Cuyahoga County Recorder

Dated: March 11, 2011

Submitted by:



David T. Movius (0070132)
Matthew J. Cavanagh (0079522)
MCDONALD HOPKINS LLC
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Counsel for Cuyahoga County Recorder

Certificate of Service

In accordance with Rule 14.2 of the Rules of Practice of the Supreme Court of Ohio, I hereby certify that on March 11, 2011, I served a copy of the foregoing ***Cuyahoga County Recorder's Response To Relators' Interrogatories*** by ordinary U.S. mail upon the following:

David L. Marburger (0025747)
Michael E. Mumford (0073931)
John Blanton (0086836)
BAKER & HOSTETLER LLP
PNC Center
1900 East Ninth Street, Ste. 3200
Cleveland, Ohio 44114
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dmarburger@bakerlaw.com
mmumford@bakerlaw.com
jblanton@bakerlaw.com

Counsel for Relators



Counsel for Respondent
Cuyahoga County Recorder

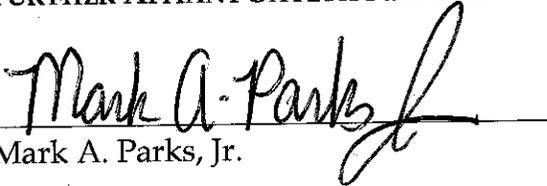
VERIFICATION SHEET

State of Ohio)
)
County of Cuyahoga) ss:

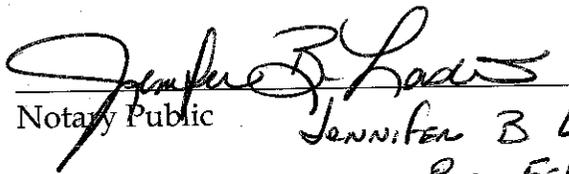
Having been duly sworn, Mark A. Parks, Jr. states as follows:

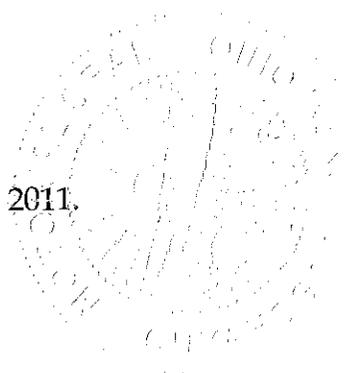
1. I am the Acting Fiscal for the Cuyahoga County Recorder's Office.
2. I have read the Cuyahoga County Recorder's Response To Relators' Interrogatories, which it served upon the respondents' counsel on March 11, 2011, in the case entitled State ex rel. Data Trace Information Services, LLC, et al. v. Recorder of Cuyahoga County, Ohio, Ohio Supreme Court, Case No. 10-2029.
3. Based upon (a) my personal knowledge; (b) what has been communicated or otherwise provided to me by other Recorder employees and by others; and (c) the Recorder's business records, the answers to the interrogatories are true to the best of my knowledge, information, and belief.

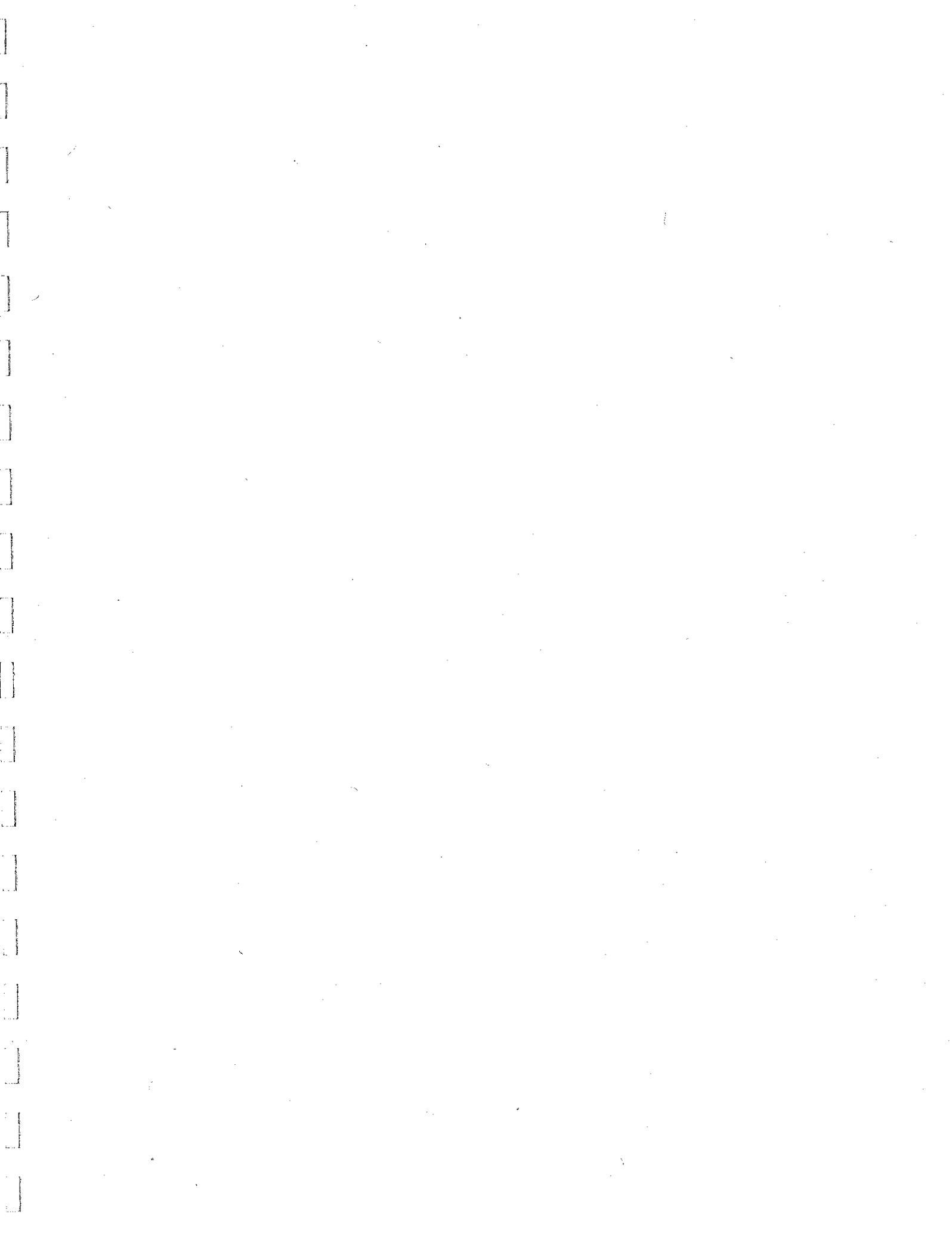
FURTHER AFFIANT SAYETH NAUGHT


Mark A. Parks, Jr.

Subscribed and sworn to before me this 13th day of May, 2011.


Notary Public Jennifer B. LASTEMA
Exp. Feb. 21, 2014





IN THE SUPREME COURT OF OHIO

State ex rel. Data Trace Information) Case No. 10-2029
Services, LLC, et al.,)
)
Relators,) Original Action in Mandamus
)
vs.)
)
Recorder of Cuyahoga)
County, Ohio,)
)
Respondent.)

Stipulation

The parties to this action stipulate as follows:

1. In June 2010, the respondent first posted on its website the policy shown in **Exhibit 4 to the deposition of Lillian Greene.**

(a) Respondent replaced that policy on its website with the policy shown in **Exhibit 5 to John Kandah's deposition.**

(b) Respondent made that replacement on January 10, 2011.

2. Also in June 2010, respondent first made available to the public at its office a paper version of the policy shown in **Exhibit 4 to the deposition of Lillian Greene.**

(a) Respondent replaced the publicly-available paper version of that policy at its office with the policy shown in **Exhibit 5 to John Kandah's deposition.**

(b) Respondent made that replacement on or about January 10, 2011.



3. The CD attached to this stipulation as **Exhibit 1** contains the source code for respondent's website as it existed on:

(a) the earliest date during Lillian Greene's tenure as the Cuyahoga County Recorder that the respondent can retrieve (6.30.08); and

(b) as it existed on the most recent date during Patrick O'Malley's tenure as the Cuyahoga County Recorder that the respondent can retrieve (4.30.08).

4. Attached to this stipulation as **Exhibit 2** is a copy of a public records policy available from the Ohio Attorney General. The respondent used it as the foundation for the policy that is Exhibit 4 to the deposition of Lillian Greene.

5. Other than the deposition testimony taken with counsel for all parties present, the respondent will not offer testimony by affidavit or otherwise that describes the processes or mechanics of photocopying documents, electronically scanning documents, or electronically transmitting facsimiles of documents.

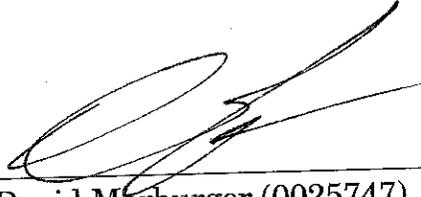
6. As of January 12, 2011, the respondent pays \$31.81 to purchase a pack of 100 blank compact discs.

Stipulated by:



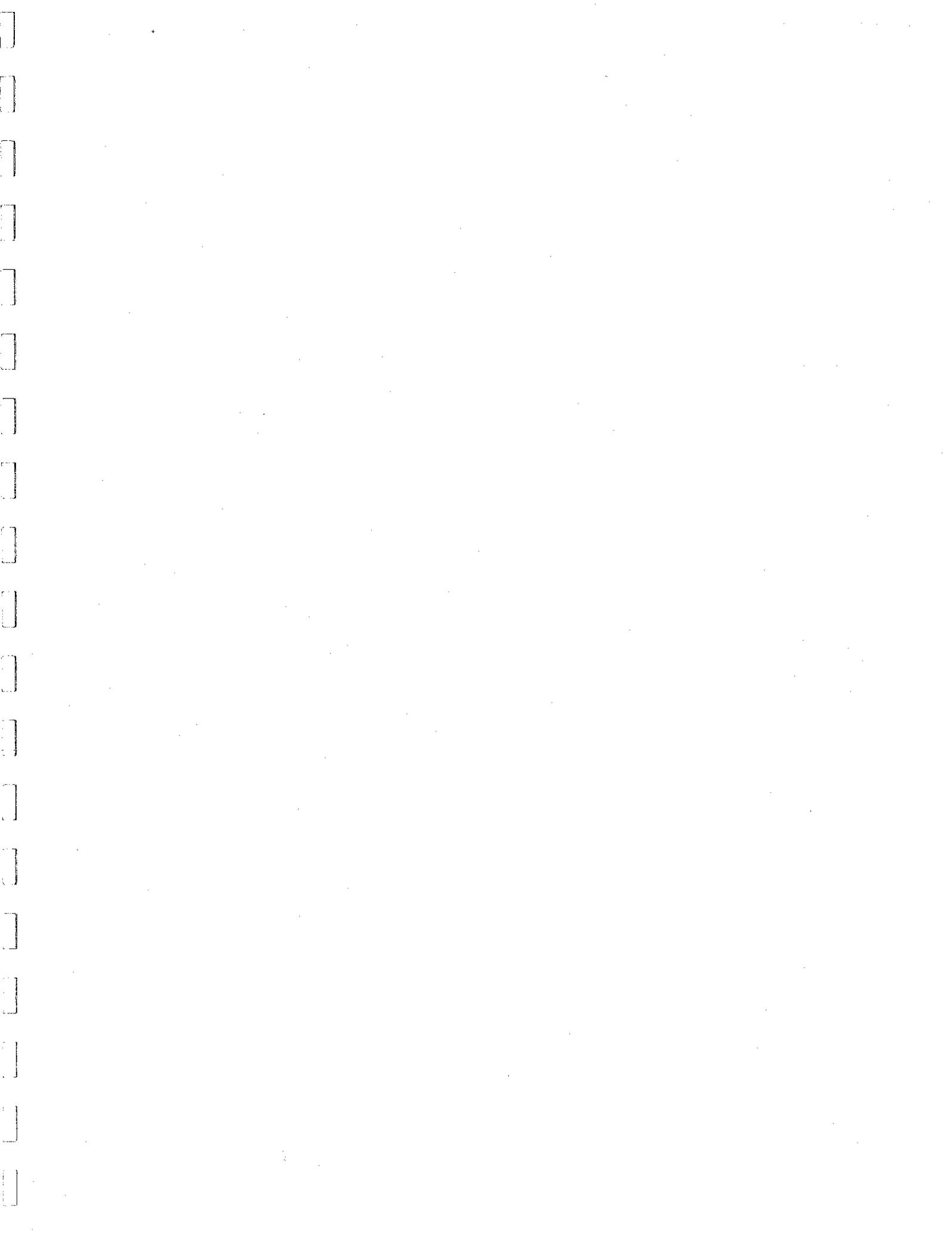
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*Counsel for Respondent
Recorder of Cuyahoga County, Ohio*

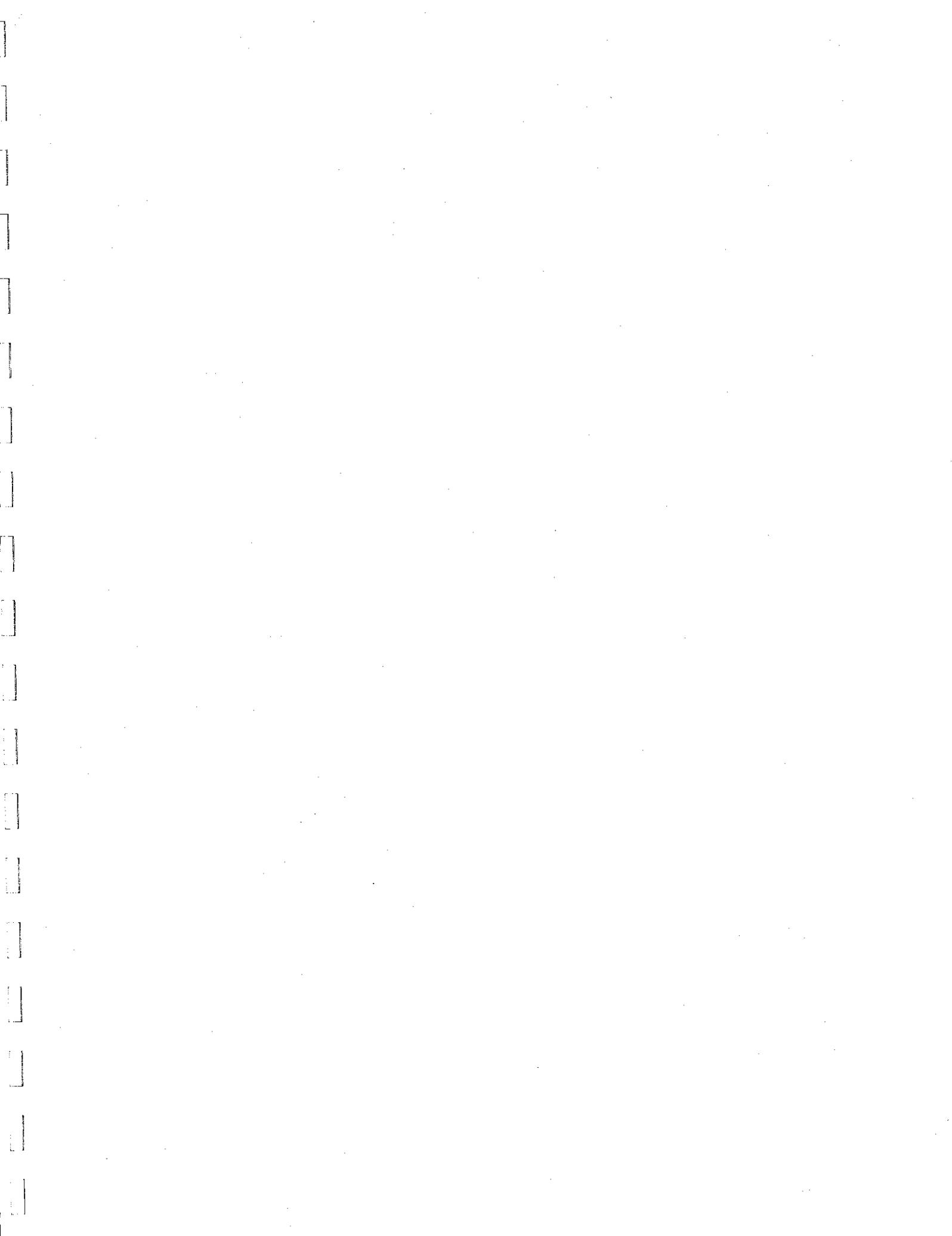


David Marburger (0025747)
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Cleveland, Ohio 44114
T 216.621.0200
F 216.696.0740
dmarburger@bakerlaw.com

Counsel for all Relators



ATTACHMENT NOT SCANNED





MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

INTRODUCTION TO PUBLIC RECORDS

It is the policy of this Office that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of this Office to strictly adhere to the State's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request for public records is in writing, the explanation of denial must also be in writing.

AG comment: The purpose of the "Introduction to Public Records Section" is intended to convey the philosophy of a public office toward openness and to set the tone for how a public office will interact with the public in terms of customer service and the free flow of information.

PUBLIC RECORDS

Section 1. Definition

This Office, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of this Office are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

Section 1.1 Organization and Maintenance

It is the policy of this Office that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

AG comment: The purpose of the "Public Records Section" is to define a "public record." However, the definition will vary from agency to agency. Law enforcement, for instance, has unique exemptions under the Open Records Act. School districts have different standards for student records than for administrative records. Law offices, such as those of city law directors or county prosecutors, will have records that are exempt from disclosure requirements based on attorney-client privilege and work-product in reasonable anticipation of litigation. Public entities are encouraged to examine their current policies to ensure "public record" is defined as broadly as possible.

PUBLIC RECORDS REQUESTS & RESPONSES

Section 2. Evaluation of a Public Records Request

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1 Identification of Public Records Requested

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2 Method of Public Records Request and Identity of Requestor

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this Office's general policy that this information is not to be requested.

Section 2.3 Availability of Public Records for Inspection and Production of Copies

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review of the records requested.

Section 2.4 Time Constraints for Satisfying Public Records Requests

Each request should be evaluated for an estimated length of time required to gather the records. If feasible, routine requests for records should be satisfied immediately. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

All requests for public records must either be satisfied or be acknowledged in writing by a public office within three business days following the office's receipt of the request. If a request will not be satisfied within three business days, the acknowledgement must include at least the following:

- A request for clarification (if necessary)
- An estimated cost if copies are requested.

Section 2.5 Denial of Public Records Requests

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

AG comment: The purpose of the "Public Records Requests and Responses Section" is to outline how a public body may respond to requests for public records. While the Ohio Revised Code merely states that a "reasonable time" is required for making copies available in response to public records requests, this model policy contemplates that public offices should at least respond to the request within three business days. Further, public bodies should strive to provide copies in responses to routine public records requests immediately, or at the maximum within three business days. Some public offices may find this onerous. We encourage, however, each agency and body to set parameters on response times as a way to manage expectations and facilitate openness.

COSTS FOR OBTAINING COPIES OF PUBLIC RECORDS

Section 3. Charges for Copies and Postage

Those seeking public records will be charged only the actual cost of making copies, as follows:

Section 3.1 The charge for paper copies is 5 cents per page.

Section 3.2 The charge for downloaded computer files to a compact disc is \$1 per disc.

Section 3.3 There is no charge for documents e-mailed.

Section 3.4 Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

AG comment: The purpose of the "Costs for Obtaining Copies of Public Records Section" is to define actual costs of copies, which under Ohio law may only consist of the costs of paper, ink, etc., and not the time used for gathering, reviewing or physically copying the records.

E-MAIL AS PUBLIC RECORDS

Section 4. Definition of E-mail as Public Records

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

Section 4.1 Private E-mail Accounts Holding Public Records

Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of this Office are instructed to retain their e-mails that relate to public business (see Section 1 Public Records) and to copy them to their business e-mail accounts and/or to the Office's records custodian.

Section 4.2 Duties of the Records Custodian in Managing Private Account E-mails

The records custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

AG comment: The purpose of the "Email as Public Records Section" is to clarify the ongoing debate over public records in e-mail and other electronic formats. The key issue in defining a public record is not format, but content. If an e-mail or other electronic communication involves the business of a public office, it is a record of that office and is subject to disclosure.

FAILURE TO RESPOND TO A PUBLIC RECORDS REQUEST

Section 5. Legal and Non-Legal Consequences

A public office recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, failure to comply may also result in a court ordering the public office to comply with the law and to pay the requester's attorney's fees and damages.

AG comment: The purpose of the "Failure to Respond to a Public Records Request Section" is to emphasize the consequences of the infraction.



- Home
- Search Database ▶
- History ▶
- Documents
- Information ▶
- Public Outreach ▶
- Links
- Veteran Grave Sites
- Forms
- Survey
- Fees & Filings
- Microfilming Center
- Property Alert ▶

PUBLIC RECORDS REQUEST POLICY

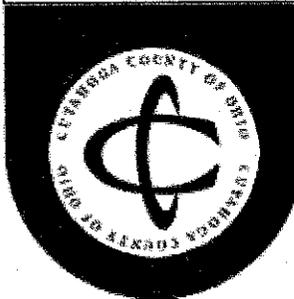
OF

THE CUYAHOGA COUNTY RECORDER'S OFFICE

LILLIAN J. GREENE, RECORDER

Introduction:

It is the policy of the Cuyahoga County Recorder's Office that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Cuyahoga County Recorder's Office to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.



Section 1. Public records

This office, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the Cuyahoga County Recorder's Office are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

Section 1.1

It is the policy of the Cuyahoga County Recorder's Office that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

EXHIBIT <u>4</u>
Deponent <u>Greene</u>
Date <u>1/5/11</u> Rptr. <u>RB</u>
WWW.DEPOBOOK.COM

Section 2. Record requests

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2

The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that this information is not to be requested.

Section 2.3

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

Section 2.4

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, recorded documents, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

All requests for public records must either be satisfied (see Section 2.4) or be acknowledged in writing by the (public office) within a reasonable time following the office's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

Section 2.4a – An estimated number of business days it will take to satisfy the request.

Section 2.4b – An estimated cost if copies are requested.

Section 2.4c – Any items within the request that may be exempt from disclosure.

Section 2.5

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

Section 3. Costs for Public Records

Those seeking public records will be charged only the statutory cost of making copies.

Section 3.1 The charge for paper copies of recorded documents is \$2.00 per page.

Section 3.2 The charge for copies of administrative files and documents is \$.05 per page.

Section 3.3 The charge for downloaded computer files to a compact disc is \$1.00 per disc.

Section 3.4 There is no charge for documents e-mailed.

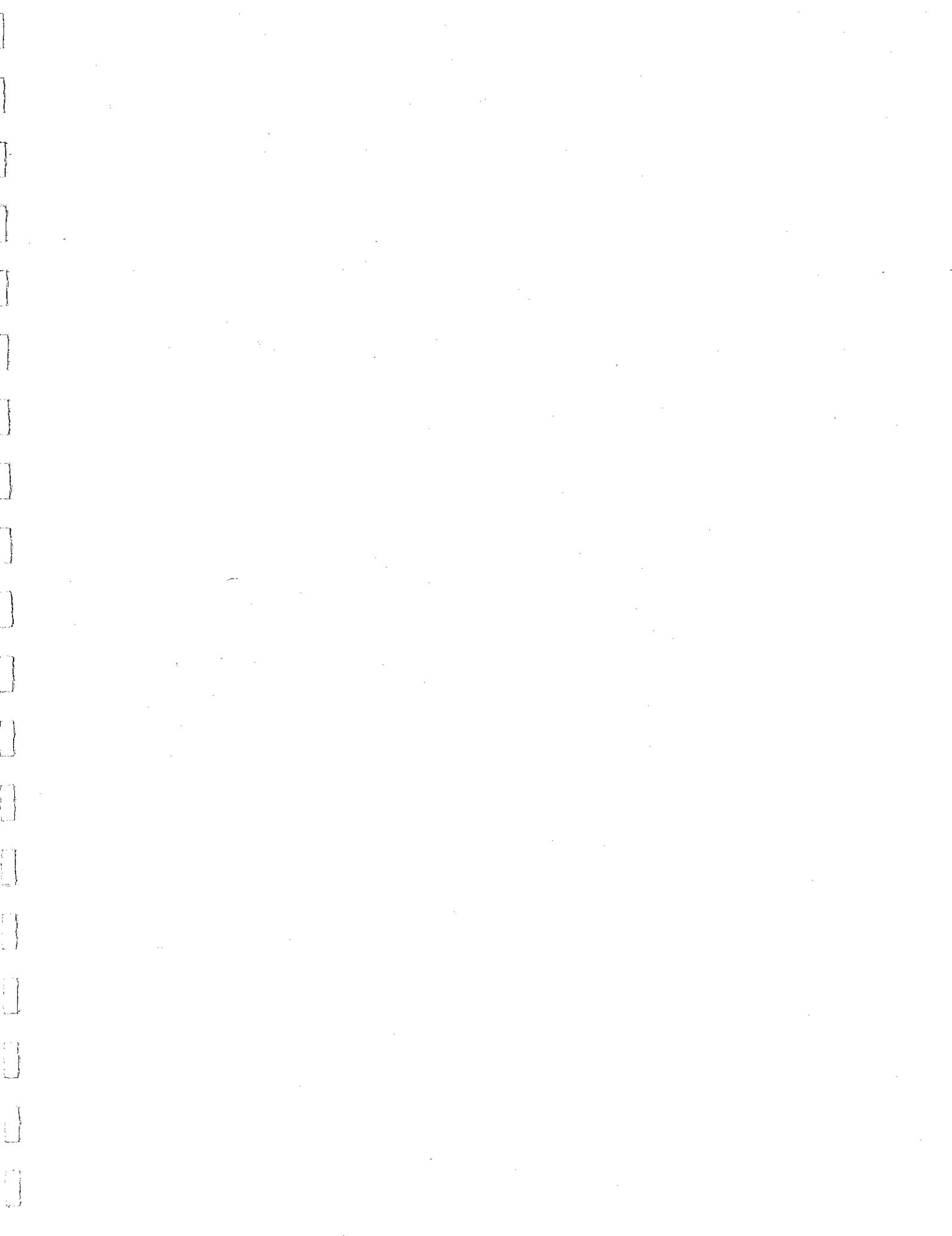
Section 3.4

Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

Section 4. E-mail

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

Section 4.1 – Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of this office are instructed to retain their e-mails that relate to public business (see Section 1 Public Records) and to copy them to their business e-mail accounts and/or to the office's records custodian.



Cuyahoga County

Department of the Recorder

1:19:32 PM Fri, Jan 28th

BEWARE CUYAHOGA COUNTY RESIDENTS There

- Home
- Search Database
- History
- Documents
- Information
- Public Outreach
- Links
- Veteran Grave Sites
- Forms
- Survey
- Fees & Filings
- Microfilming Center
- Property Alert



PUBLIC RECORDS REQUEST POLICY

OF

THE CUYAHOGA COUNTY RECORDER'S OFFICE

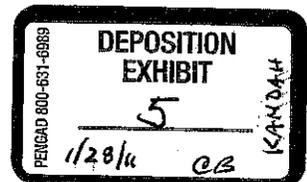
LILLIAN J. GREENE, RECORDER

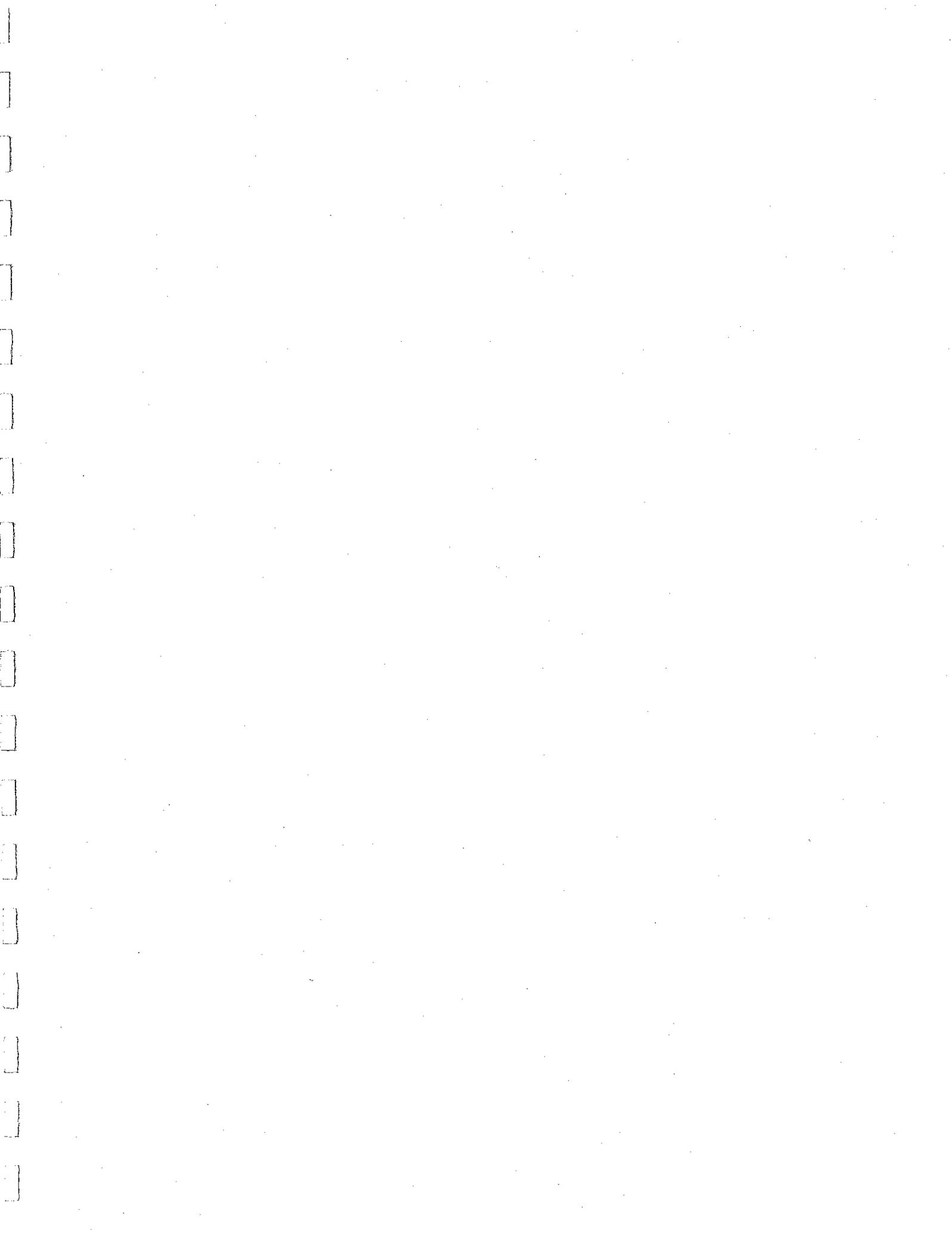
Introduction:

It is the policy of the Cuyahoga County Recorder's Office that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Cuyahoga County Recorder's Office to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.

Section 1. Public records

This office, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the Cuyahoga County Recorder's Office are public unless they are specifically exempt from disclosure under the Ohio Revised Code.





STATE OF OHIO

)

ss: AFFIDAVIT OF KARL IDSVOOG

)

COUNTY OF SUMMIT

)

I, Karl Idsvoog, being duly sworn, state as follows based upon my personal knowledge.

1. I am an associate professor in the School of Journalism and Mass Communication at Kent State University, and a former investigative journalist for Scripps Howard Broadcasting Company, the syndicated television newsmagazine program "Inside Edition," apbnews.com, and other news organizations.

2. In March and April 2011, I asked the office of each recorder of every Ohio county, except for Cuyahoga, to provide me with digital copies of recorded deeds and other recorded instruments. I asked each of those 87 county recorders to provide the digital copies onto a CD. I asked that the CD contain copies of every electronically-stored deed and other instrument that the county had recorded on August 25, 2010. My request excluded all records exempt from disclosure by law.

3. Each request also said:

I can send a pre-addressed envelope and payment in advance if required. To whom should I send that, and what will be the cost?

4. 61 counties complied with my requests by each of 60 counties providing me with a CD containing digital copies of records, typically in exchange for a fee. The 61st county provided the digital copies on a digital file known as a "zip" file. The zip file and each CD appears to contain digital copies of the instruments that the county supplying the CD recorded on August 25, 2010. I obtained a CD containing digital copies of the recorded instruments from every county that expressed willingness to provide one (treating the zip file as functionally the same as a CD for purposes of this affidavit). I have delivered those CDs to Baker & Hostetler where they are available for inspection or copying by counsel for the Cuyahoga County recorder.

5. No county demanded a fee based on the number of pages comprising the instruments that would be (or were) copied onto a CD. The most common fee was \$1. The next most common fee was \$2. A few counties charged less than \$1. The highest fee that I paid to any county was \$20 to Franklin County.

6. The table of counties marked as **Exhibit 7** summarizes the fee that I paid to each county for a CD of digital copies of recorded instruments.

7. I did not obtain a CD of digital copies of recorded instruments from 21 counties, and did not pursue them after each county's recorder's office told me that the office did not have the technical capacity to provide digital copies on CD. I did not verify whether those statements are true, but those statements caused me to abandon my efforts to obtain a CD from those counties. Those counties were:

County	County seat	County	County seat
Champaign	<i>Urbana</i>	Guernsey	<i>Cambridge</i>
Fairfield	<i>Lancaster</i>	Henry	<i>Napoleon</i>
Licking	<i>Newark</i>	Meigs	<i>Pomeroy</i>
Monroe	<i>Woodsfield</i>	Morgan	<i>McConnellsville</i>
Noble	<i>Caldwell</i>	Pike	<i>Waverly</i>
Ross	<i>Chillicothe</i>	Scioto	<i>Portsmouth</i>
Summit	<i>Akron</i>	Trumbull	<i>Warren</i>
Vinton	<i>MacArthur</i>	Washington	<i>Marietta</i>
Hardin	<i>Kenton</i>	Coschocton	<i>Coschocton</i>
Wayne	<i>Wooster</i>	Morrow	<i>Mount Gilead</i>
Sandusky	<i>Fremont</i>	Paulding	<i>Paulding</i>

8. I did not obtain a CD from Geauga County (*Chardon*) after the recorder's personnel said that they'd never tried to make copies of electronically-stored instruments onto a CD and could not guarantee doing it would be successful.

9. I did not obtain a CD from Lawrence County (*Ironton*) after the Lawrence County recorder's office said that the county prosecutor had advised that the recorder had no duty to put digital copies onto a CD if that was not the recorder's normal business practice.

10. I did not obtain a CD from Medina County (*Medina*) after the

Medina County recorder wrote this message to me:

Our version of IDOC (our software) does not currently support the ability for us to download your request on a CD.

Our software is very old and we would love to have updated software but our budget has really been reduced in recent years.

We have been talking to our software vendor for the last two days trying to download your request, but have not been successful in our attempts.

We have never been able to download requests electronically and therefore we state in our Public Records Policy that we do not offer information electronically.

Again, we would love to honor your request with hard-copies if you would like.

We will continue to work with our software vendor in an attempt to create this file.

Please let me know if you would like hard-copies.

I did not verify whether those statements are true, but I did not further pursue Medina County for a CD of digital copies because of that message.

11. I did not obtain CDs from Fayette County (*Washington Court House*), which declined to provide one and did not give a reason.

12. Tuscarawas County (*New Philadelphia*) declined to provide a CD. That office mailed me a copy of a computer print out listing the records that had been recorded on August 25, 2010, with a note saying that I could obtain paper copies for \$2 per page.

13. The map marked as **Exhibit 8** summarizes the results of my requests to the 87 counties.

14. On a Sunday evening in April 2011, I visited the Cuyahoga County Recorder's website, <http://www.recorder.cuyahogacounty.us>, on a desktop computer. Using the "Search Database" link on the recorder's website, I searched for all instruments recorded in Cuyahoga County on August 25, 2010. My search yielded a list of 458 recorded deeds and other instruments.

15. Following the steps that the website required for viewing and downloading a recorded instrument on the site, which included typing in security codes that changed as I proceeded from stage to stage in the process, I viewed and downloaded the first three instruments identified in the search result. They had the following Automated File Numbers, or AFNs: 201008250001, 201008250002, and 201008250003. Using a digital timer, I timed how long it took me to view and download digital copies of those three recorded instruments.

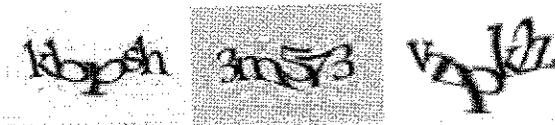
16. It took more than two minutes per record to download just those three records – a total of about 7.5 minutes. At a two minute-per-record rate, it would have taken me about 15 hours to download all 458 records that were recorded on August 25, 2010. Even applying a more generous 1 minute-per-record rate would have taken me about 7.5 hours to download those records.

17. The computer I used to download the three records has a fast processor and I had a solid, fast internet connection. I downloaded the three records on a Sunday evening, when you would expect very little traffic on the county website to slow the download process.

18. The DVD marked as **Exhibit 29** is a video recording that accurately shows me as I used the Cuyahoga County Recorder's website to access and download digital copies of the three instruments and accurately shows how long it took to access and download those records.

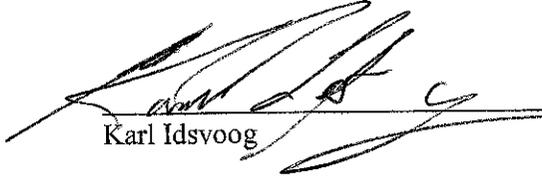
19. As the DVD shows, the Cuyahoga County Recorder's website requires the person searching for a deed, mortgage, or other instrument to enter changing "captcha" codes at various stages of locating and viewing a single instrument.

Examples are:



20. In May, 2011, I visited the website of every county recorder in Ohio except Cuyahoga's (which I'd visited the month before). To the extent that each website allowed an online search for a recorded instrument, I did not find any that required entering a "captcha" code or any similar changing security code to see what the search produced. Some required a password to begin a search, but I did not find any that required a series of changing codes to see the results of the search, except the Cuyahoga County Recorder's website when I visited it in April, 2011.

I declare under penalty of perjury that the foregoing is true and correct. Further affiant sayeth naught.

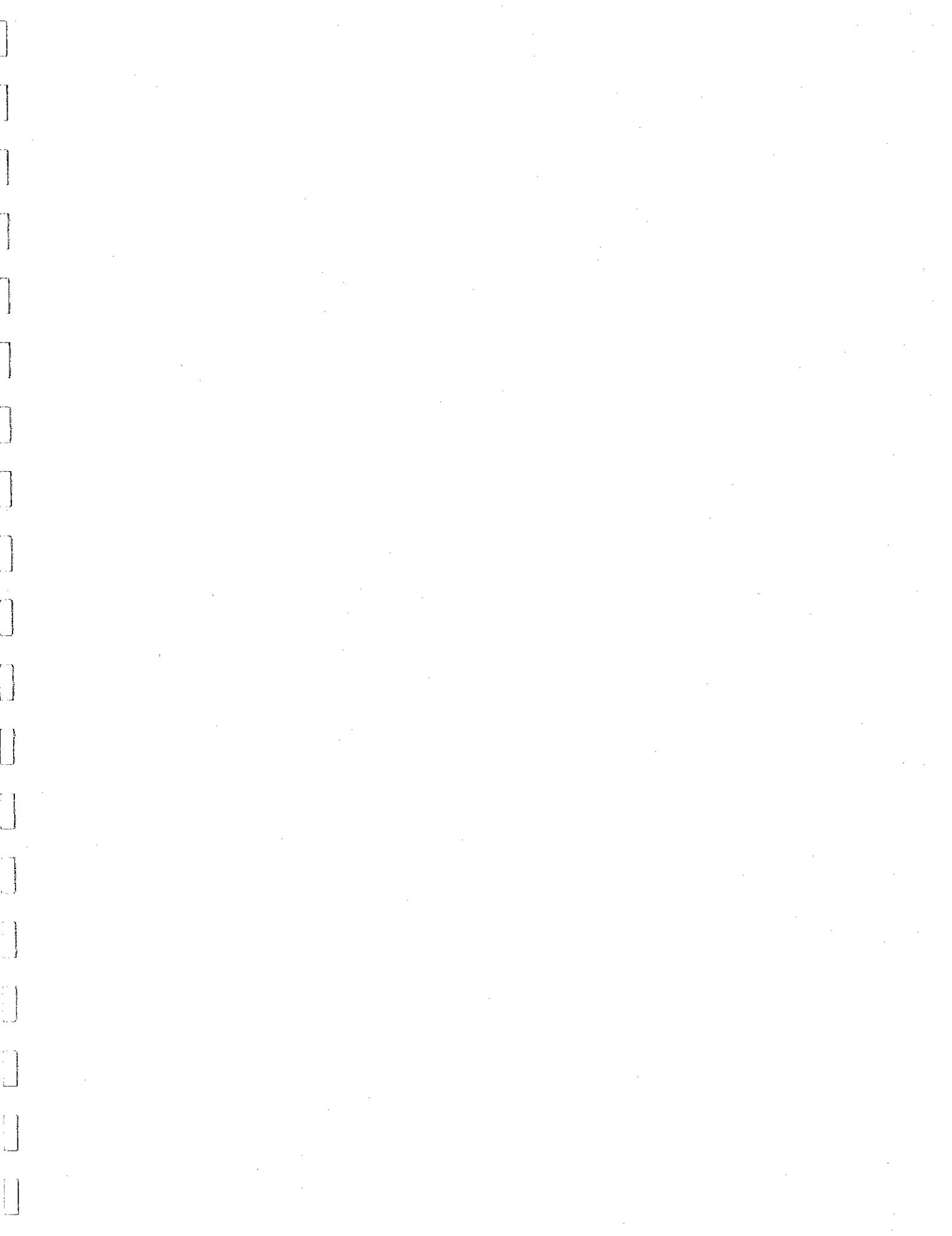

Karl Idsvoog

SWORN TO AND SUBSCRIBED to before me on this 13 day of May, 2011.


Notary Public



Audrey Lingenfelter, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Aug 2015



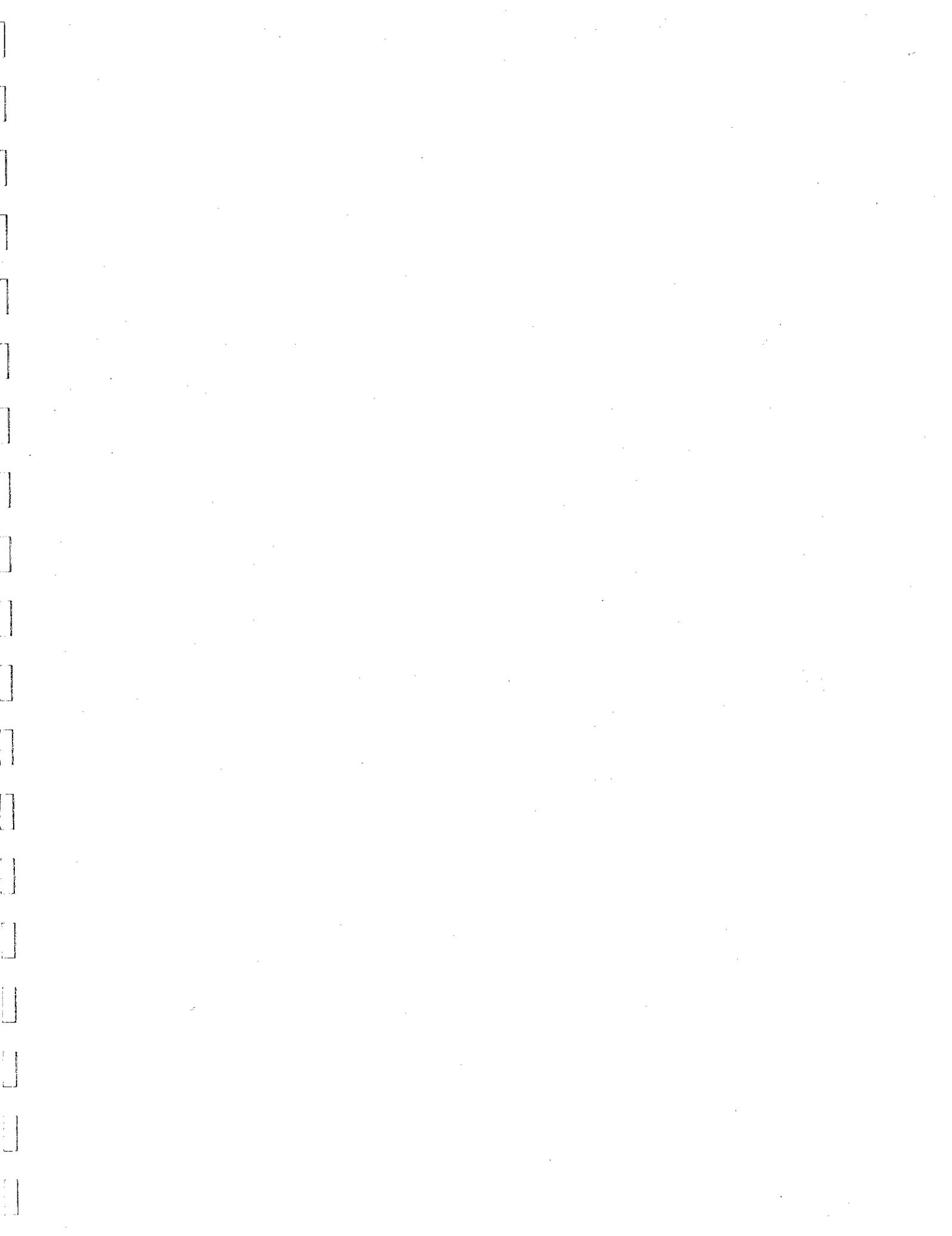
**Counties that provided digital copies on CD to Karl Idsvoog
of instruments recorded on August 25, 2010
& amount of each county's fee**

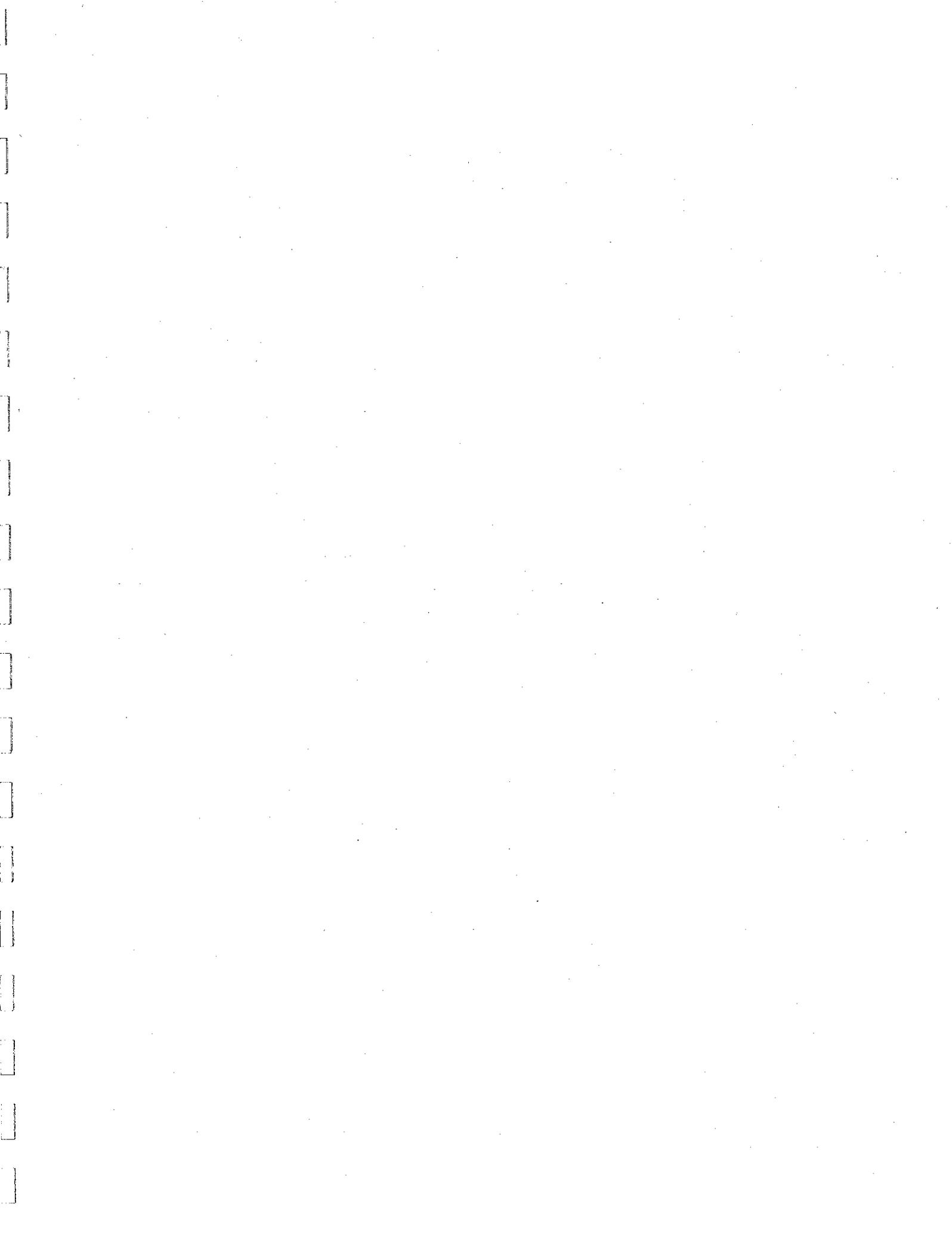
County recorder	County seat	Fee paid for CD
Harrison	<i>Cadiz</i>	\$0
Jefferson	<i>Steubenville</i>	\$0
Lorain	<i>Elyria</i>	\$0 (on zip file)
Montgomery	<i>Dayton</i>	\$0 with CD supplied by K. Idsvoog
Pickaway	<i>Circleville</i>	\$0
Portage	<i>Ravenna</i>	\$0
Wood	<i>Bowling Green</i>	\$0.35
Allen	<i>Lima</i>	\$1
Ashland	<i>Ashland</i>	\$1
Athens	<i>Athens</i>	\$1
Brown	<i>Georgetown</i>	\$1
Butler	<i>Hamilton</i>	\$1
Clark	<i>Springfield</i>	\$1
Clermont	<i>Batavia</i>	\$1
Clinton	<i>Wilmington</i>	\$1

County recorder	County seat	Fee paid for CD
Crawford	<i>Bucyrus</i>	\$1
Defiance	<i>Defiance</i>	\$1
Delaware	<i>Delaware</i>	\$1
Gallia	<i>Gallipolis</i>	\$1
Hamilton	<i>Cincinnati</i>	\$1
Highland	<i>Hillsboro</i>	\$1
Hocking	<i>Logan</i>	\$1
Holmes	<i>Millersburg</i>	\$1
Jackson	<i>Jackson</i>	\$1
Knox	<i>Mount Vernon</i>	\$1
Lake	<i>Painesville</i>	\$1
Logan	<i>Bellefontaine</i>	\$1
Madison	<i>London</i>	\$1
Mahoning	<i>Youngstown</i>	\$1
Muskingum	<i>Zanesville</i>	\$1
Perry	<i>New Lexington</i>	\$1
Richland	<i>Mansfield</i>	\$1
Union	<i>Marysville</i>	\$1
Van Wert	<i>Van Wert</i>	\$1

County recorder	County seat	Fee paid for CD
Williams	<i>Bryan</i>	\$1
Wyandot	<i>Upper Sandusky</i>	\$1
Lucas	<i>Toledo</i>	\$1.25
Carroll	<i>Carrollton</i>	\$1.61
Adams	<i>West Union</i>	\$2
Auglaise	<i>Wapakoneta</i>	\$2
Belmont	<i>St. Clairsville</i>	\$2
Columbiana	<i>Lisbon</i>	\$2
Darke	<i>Greenville</i>	\$2
Mercer	<i>Celina</i>	\$2
Preble	<i>Eaton</i>	\$2
Shelby	<i>Sidney</i>	\$2
Huron	<i>Norwalk</i>	\$2
Mercer	<i>Celina</i>	\$2
Fulton	<i>Wauseon</i>	\$2.39
Hancock	<i>Findlay</i>	\$2.40
Miami	<i>Troy</i>	\$2.50

County recorder	County seat	Fee paid for CD
Lawrence	<i>Ironton</i>	\$3.00
Ashtabula	<i>Jefferson</i>	\$3.17
Greene	<i>Xenia</i>	\$3.95
Erie	<i>Sandusky</i>	\$5
Putnam	<i>Ottawa</i>	\$5
Warren	<i>Lebanon</i>	\$6.25
Seneca	<i>Tiffin</i>	\$7.25
Stark	<i>Canton</i>	\$11
Marion	<i>Marion</i>	\$15
Franklin	<i>Columbus</i>	\$20





ATTACHMENT NOT SCANNED

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

ss: **AFFIDAVIT OF DAVID DARMSTADT**

I, David Darmstadt, being duly sworn, state as follows based upon my personal knowledge.

1. I am employed by Property Insight, LLC as the assistant manager of its Cleveland title plant operations. I have held this position since 2002.

2. Property Insight stores and organizes information gleaned from deeds, mortgages, privately-held liens on land, tax liens on land, releases of mortgages and liens, leases, and other publicly available records that county recorder's offices record.

3. Property Insight's clients are companies that evaluate and insure the quality of title to land regardless of whether the land has been used for residential, commercial, or governmental purposes.

4. From roughly 2006 through 2009, I was the Cuyahoga County Recorder's point of contact at Property Insight.

5. By working directly with the county recorder's office and relying on and using what I learned from county personnel, I have learned generally what the office has done with deeds and other instruments that the county records.

6. Deeds, mortgages, liens, and other legal instruments that affect interests in the land come to the county recorder's office as paper documents. Using a deed as an example, the county takes the original deed and scans it electronically to create a digital image of the deed.

7. The recorder keeps the digital image of the scanned instrument as a computer file.

8. The recorder assigns a unique number to that instrument, called an AFN, which stands for Automated File Number. That number shows the date that the county recorded the instrument and the sequence in which it was recorded that day.

9. Using information that appears on the face of the digital image of the instrument, employees in the county recorder's office enter certain information about that instrument into the computer system.

10. The information compiled by the recorder's office is commonly referred to as the grantor-grantee index.

11. While Patrick O'Malley was the Cuyahoga County Recorder, the county provided digital copies of the grantor-grantee index.

12. Throughout a year, the county provided Property Insight with regularly updated copies of those indexes in digital form for \$5,000 each year.

13. In mid-September 2009, I received a letter from O'Malley's successor in office, Recorder Lillian Greene.

14. In her letter, Ms. Greene advised that the annual subscription fee paid by Property Insight for the grantor-grantee index would be increasing from \$5,000 to \$7,500 effective January 1, 2010. The reason: "the recent county budget crisis has caused all agencies to re-evaluate their own budgets in an effort to maximize income and cut expenses."

15. An accurate copy of the letter from Lillian Greene, dated September 16, 2009, letter is marked as **Exhibit 10**.

I declare under penalty of perjury that the foregoing is true and correct. Further affiant sayeth naught.


David Darmstadt

SWORN TO AND SUBSCRIBED to before me on this 13 day of May 2011.


Notary Public

Michael A Wypasek
Attorney- Permanent Commissioner
O.R.C. 147.03

503337116.1

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

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6. Deeds, mortgages, liens, and other legal instruments that affect interests in the land come to the county recorder's office as paper documents. Using a deed as an example, the county takes the original deed and scans it electronically to create a digital image of the deed.

7. The recorder keeps the digital image of the scanned instrument as a computer file.

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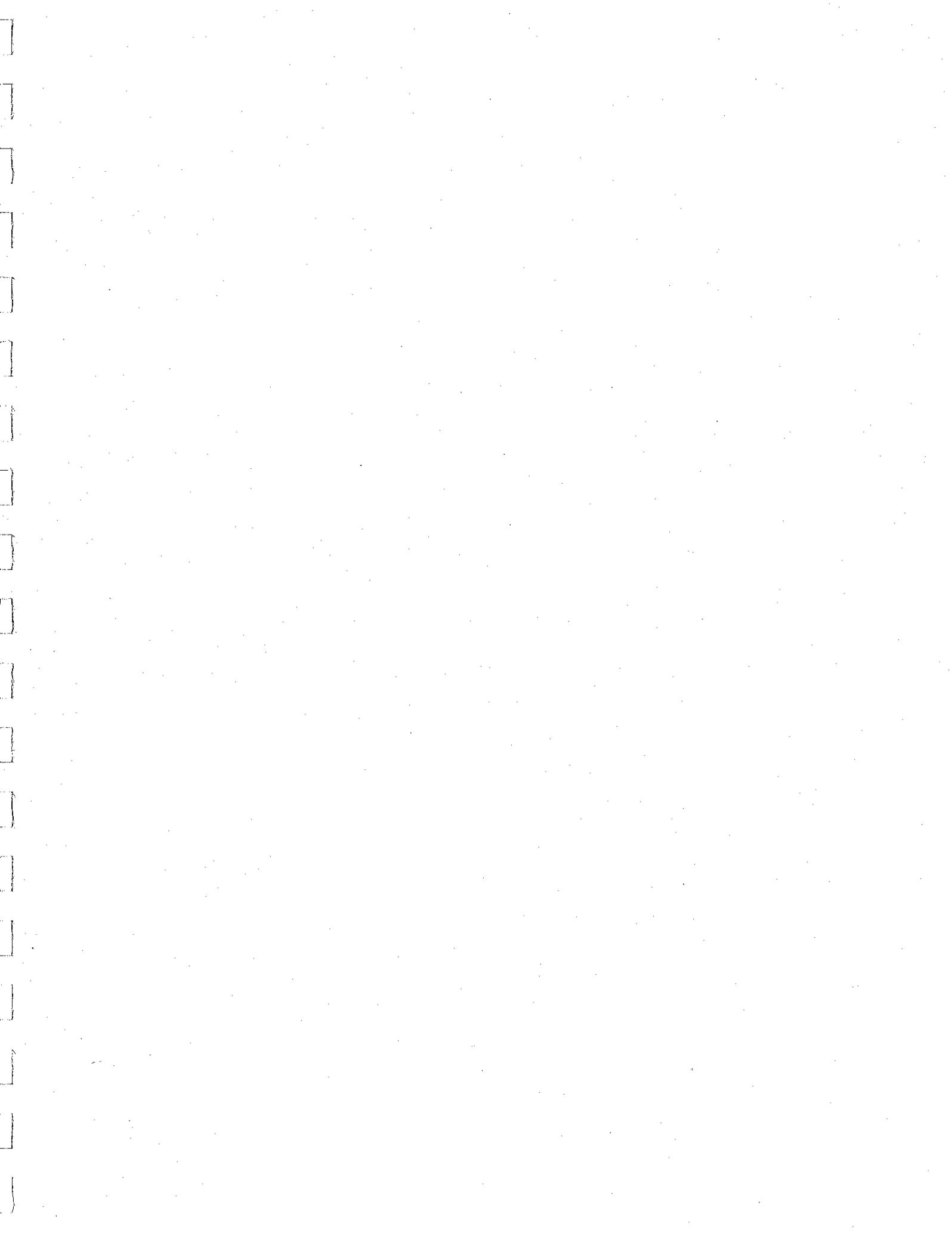

David Darmstadt

SWORN TO AND SUBSCRIBED to before me on this 13 day of May 2011.


Notary Public

Michael A Wypasek
Attorney- Permanent Commissioner
O.R.C. 147.03

503337116.1



Lillian J. Greene
County Recorder

County Administration Building
1219 Ontario Street
Phone (216) 443- 8194
Fax (216) 443- 8193

September 16, 2009

Property Insight Northern Ohio
Attn: David Darmstadt
1367 E. 6th Street, Suite 500
Cleveland, Ohio 44114

Dear Mr. Darmstadt:

As you are aware, the recent county budget crisis has caused all agencies to re-evaluate their own budgets in an effort to maximize income and cut expenses. Upon review, the previous annual fee of Five Thousand Dollars (\$5,000.00) has not been increased since its implementation in 2003. As a result we must inform you that the annual subscription fee for computer disks of the images and index of our daily document recordings will increase as of January 1, 2010 to Seven Thousand Five Hundred Dollars (\$7,500.00). The cost for single disks of our daily recordings will not increase. It will remain at the current rate of Fifty Dollars (\$50.00) per disk (with each disk representing the documents/index for one business day's recording).

Even with this increase in fees, your companies are enjoying a substantial savings over the annual cost of purchasing individual disks, which would cost the average purchaser approximately \$14,000.00 should they request a year's worth of documentation.

We look forward to continuing our longstanding association as we approach the coming year.

Yours truly,


Lillian J. Greene
Cuyahoga County Recorder

Koons, Tina

From: Darmstadt, David [David.Darmstadt@propertyinsight.biz]
Sent: Monday, April 11, 2011 8:34 AM
To: Carsella, Michael
Subject: Ohio Recorders
Attachments: Cuyahoga County Recorder letter 9-16 Re CD fees.PDF

See attached. It is talking about the cost increasing for the Daily Index, but mentions the Daily CD cost at the end.

*Thank You
David Darmstadt*

Property Insight
Ohio Team Leader
1367 East 6th Street, Suite 500
Cleveland, Ohio 44114
Phone: 216.696.5591
Fax: 216.696.0109
Cell: 440.667.9719
E Mail: David.Darmstadt@PropertyInsight.biz

4/11/2011



STATE OF ILLINOIS

COUNTY OF DuPAGE

)
)
)

ss: **AFFIDAVIT OF MICHAEL CARSELLA**

I, Michael Carsella, being duly sworn, state as follows based upon my personal knowledge.

Background

1. I am one of the relators in the suit, Ohio Supreme Court Case No. 10-2029. One of the other relators, Property Insight, LLC, employs me as its vice president of Midwest operations.
2. Property Insight was established in January, 2002 by what is today known as Fidelity National Title Group. Fidelity National Title Group is the nation's largest provider of title insurance through its subsidiary title companies, Chicago Title Insurance Company, Alamo Title Insurance, Fidelity National Title Insurance Company and Commonwealth Land Title Insurance Company.
3. At the time it was formed in 2002, Property Insight opened an office in Cleveland, Ohio, to service firms that evaluate title to real estate.
4. Property Insight stores and organizes information gleaned from deeds, mortgages, privately-held liens on land, tax liens on land, releases of mortgages and liens, leases, and other publicly available records that county recorder's offices record.
5. Property Insight also stores and organizes digital images of those same recorded instruments.

STATE OF ILLINOIS)
)
COUNTY OF DuPAGE)

ss: **AFFIDAVIT OF MICHAEL CARSELLA**

I, Michael Carsella, being duly sworn, state as follows based upon my personal knowledge.

Background

1. I am one of the relators in the suit, Ohio Supreme Court Case No. 10-2029. One of the other relators, Property Insight, LLC, employs me as its vice president of Midwest operations.
2. Property Insight was established in January, 2002 by what is today known as Fidelity National Title Group. Fidelity National Title Group is the nation's largest provider of title insurance through its subsidiary title companies, Chicago Title Insurance Company, Alamo Title Insurance, Fidelity National Title Insurance Company and Commonwealth Land Title Insurance Company.
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4. Property Insight stores and organizes information gleaned from deeds, mortgages, privately-held liens on land, tax liens on land, releases of mortgages and liens, leases, and other publicly available records that county recorder's offices record.
5. Property Insight also stores and organizes digital images of those same recorded instruments.

6. Property Insight's Cleveland office is responsible for storing and organizing land title records and recorded instruments in Cuyahoga County. The title records maintained by Property Insight date back to the 1800s. The Cleveland office also maintains and stores digital images of instruments that have been recorded in Cuyahoga County since 1985. Prior to Property Insight's formation, Property Insight's Cleveland office was operated and maintained by Property Insight's sister company, Chicago Title Insurance Company.

7. I joined Property Insight at the time of its formation in 2002, and became Vice President of Property Insight's Midwest Plant Operations in 2009.

8. As Vice President of Property Insight's Midwest Operations, I am responsible for overseeing operations at Property Insight's Cleveland office.

9. Property Insight does *not* sell information to any company for that company's use in advertising, promotion, or marketing to consumers or to businesses. Property Insight does *not* sell digital images of recorded instruments to anyone in bulk.

10. Property Insight's clients are companies that evaluate and insure the quality of title to land regardless of whether the land has been used for residential, commercial, or governmental purpose.

Property Insight acquires digital images of recorded instruments from the county recorder on CD at a cost of \$50 per CD

11. Since 2002, Property Insight regularly acquired from the Cuyahoga County Recorder compact discs containing digital images of the deeds, liens, mortgages, and other instruments that the county recorded. Each CD was to contain digital images of all the deeds, liens, mortgages, and other instruments that the county recorded on a single day. The county provided these CDs to Property Insight for \$50 apiece. Property Insight regularly paid the \$50 fee for each copy.

12. The county did not certify the CDs that Property Insight obtained, nor did the CD copies have digital images of certified copies of recorded instruments.

13. Through discussions with Dave Darmstadt, the operations manager of Property Insight's Cleveland office, I came to learn that the CDs sold to Property Insight were not created directly from computer files. Nor were they created directly by scanning paper copies of deeds or other instruments. Rather, the CDs provided to Property Insight were created simply by dubbing pre-existing back-up CDs of scanned digital images stored in the county's computer system. These back-up copies are referred to by the county as "master CDs."

How Property Insight used the digital images provided by the county

14. When Property Insight had a CD copy of one of the county recorder's "master" CDs, Property Insight personnel uploaded the copies of the digital images on the CD to one of Property Insight's computer servers.

15. Personnel at an outside vendor retained by Property Insight would then access copies of the digital images of the recorded instruments from the CD on their computer terminals.

16. Using the digital image from the CD of, for example, a deed, a data-entry person at the outside vendor typed information gleaned from the face of the deed into fields set up by Property Insight's data entry software.

17. After entering this information, a second person at the outside vendor compared the information entered by the first person with the digital image of the deed to confirm that there were no discrepancies.

18. In the event of a discrepancy, a third person at the outside vendor then had to resolve the discrepancies.

19. If the third person could not resolve the discrepancy, the vendor would notify Property Insight of the discrepancy, and Property Insight personnel in Cleveland or Carol Stream, Illinois would work to resolve the discrepancy.

20. If there were no discrepancies identified by the outside vendor, or after the discrepancies were resolved, the information was transmitted to Property Insight's main computer system.

21. The main computer system has more mechanisms to catch mistakes or inconsistencies.

22. For example, if the outside vendor failed to input information in certain of the data-entry fields, the computer would notify Property Insight of that missing data and personnel at Property Insight would then attempt to enter the necessary information or determine why that information was missing.

23. As another example, suppose that a newly recorded instrument is the release of a mortgage. Property Insight's main computer system would search for the mortgage being released. If it couldn't find the mortgage, the computer system would say so. Property Insight staff then would try to resolve the apparent absence of a recorded mortgage.

24. In addition to the quality control mechanisms described above, Property Insight personnel perform quality control checks on the data entered into its computer system. To do this, each month, Property Insight personnel review hundreds of randomly selected county recorded instruments in its system to verify the accuracy of the data gleaned from the county recorded instrument by the outside vendor. In the event any information is missing or inaccurate, Property Insight personnel will input the necessary information or determine why that information is missing. They will also resolve any discrepancies that might exist.

How Property Insight gets paid and for what

25. Property Insight does not evaluate the quality of title to land; it provides access to its database and searching capabilities.

26. Property Insight's customers are principally title companies and title agents. Title companies and title agents are retained by lenders, borrowers, and others to evaluate the quality of title to land.

27. In order to evaluate the quality of title, Property Insight's customers perform searches of the information indexed and maintained by Property Insight.

28. Most title companies and agents enter into term contracts with Property Insight to gain access to Property Insight's data, indexing, and search capability. Under these contracts, the title company or agent will pay Property Insight a set fee each time it conducts a search on Property Insight's database.

The county stops providing CD copies of its "master" CD

29. In the spring of 2010, the recorder's office notified Property Insight that it no longer would provide CD copies of the digital images from its "master" CD.

30. The recorder's office advised that it would provide only paper print-outs of those digital copies of recorded instruments and only at a fee of \$2 per page.

31. One day's worth of paper printouts of deed, mortgages, and other instruments could be over 5,000 pages. At so many pages, the county would demand a fee of some \$10,000 for a stack of paper several feet high that was unmanageable and limited to only one day's worth of recorded instruments.

32. On October 5, 2010, I sent a letter to the Cuyahoga County Recorder asking for digital copies on CD of the instruments recorded in July and August, 2010. A copy of that letter

is marked as **Exhibit 12**. The letter said that Data Trace remained willing to resume paying the \$50 fee for each CD copy, even though that amount was higher than what the Public Records Act would require. The letter also asked the recorder to change its policy so that it would provide CD copies "at cost."

The request upon which Property Insight and I have sued

33. During the next three weeks, the county recorder did not acknowledge to me that the recorder was considering my request – the recorder neither granted it nor denied it nor suggested that I'd receive a response of any kind at some future time.

34. Property Insight then sued the recorder in an original action in the Ohio Supreme Court, No. 10-1823.

35. The recorder's office did not acknowledge my October 5 request until November 16, six weeks after I made the request, and over two weeks after the recorder's office had received the summons in the lawsuit.

36. Our lawyer provided me with the copy of the November 16 letter, which the county had addressed to him. It said: "I confirm the Cuyahoga County Recorder's prior responses that it will provide the requested materials upon payment of the statutory fees required under R.C. 317.32."

37. Because the November 16 letter referred to "prior responses" and because the county had refused to provide CDs, the letter apparently said that the county would provide only paper printouts of the digital images of the instruments recorded in July and August, 2010, at \$2/page, but would not provide CD copies of the "master" CD.

38. Press coverage of the county's view of the suit in mid-March, 2011, caused me to wonder whether the county recorder's office misunderstood what I'd requested. It seemed as

though the county thought that I'd ask to have copies of deeds and other instruments scanned to create CDs, or to have the county create a CD copy directly from computer files. To make it unmistakably clear that I wanted only dubs from the pre-existing "master" CD, I sent a follow-up letter to Mark Parks, the successor-in-office to Lillian Greene. Mr. Parks had succeeded Ms. Greene about a month earlier.

39. **Exhibit 13** is a copy of the follow-up letter that I sent to Mr. Parks in March, 2011.

40. I made the request on October 5, 2010, and the follow-up to it of March, 2011, to aid in performing my responsibilities as Property Insight's vice president of Midwest operations. So I made the request to aid Property Insight, as well as to assist my own performance. The county's refusal to provide CD copies of its master CD, or to condition providing those CD copies on receiving a fee of \$208,000 for CD copies covering July and August, 2010, interferes with my ability to excel in performing my job responsibilities.

Registering to do business in Ohio

41. About a month after Property Insight sued the Cuyahoga County Recorder to enforce my request of October 5, 2010, the county asked the court to dismiss the suit. The county said that Property Insight had no right to sue because it had not registered to do business in Ohio, and so hadn't paid the \$125 registration fee.

42. To the best of my knowledge, the county had never mentioned to Property Insight any issue about Property Insight not being registered to do business in Ohio.

43. Immediately upon learning that the county said in its court filing that Property Insight is supposed to register to do business in Ohio, I confirmed that Property Insight had not

registered. Property Insight then registered and paid the \$125 registration fee. I don't know whether the law actually required Property Insight to register.

44. Instead of wasting time and money arguing about whether Property Insight could continue with the suit, Property Insight filed a new suit, the current one, No. 10-2029, after registering and paying the \$125 fee.

What if Property Insight paid the fee that Cuyahoga County now demands?

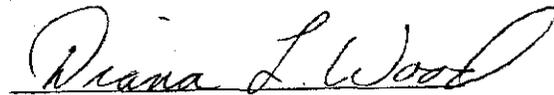
45. Cuyahoga County is demanding that Property Insight pay a fee of more than \$208,500 to obtain CD copies of the county's master CDs covering only July and August, 2010.

46. If Property Insight were to pay that fee for those CD copies and to continue paying for other CD copies at that rate, Property Insight would raise dramatically the fee that it charges to title companies for accessing and searching Property Insight's database to evaluate title to land in Cuyahoga County.

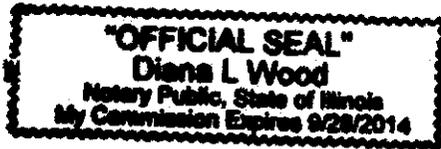
I declare under penalty of perjury that the foregoing is true and correct. Further affiant
sayeth naught.

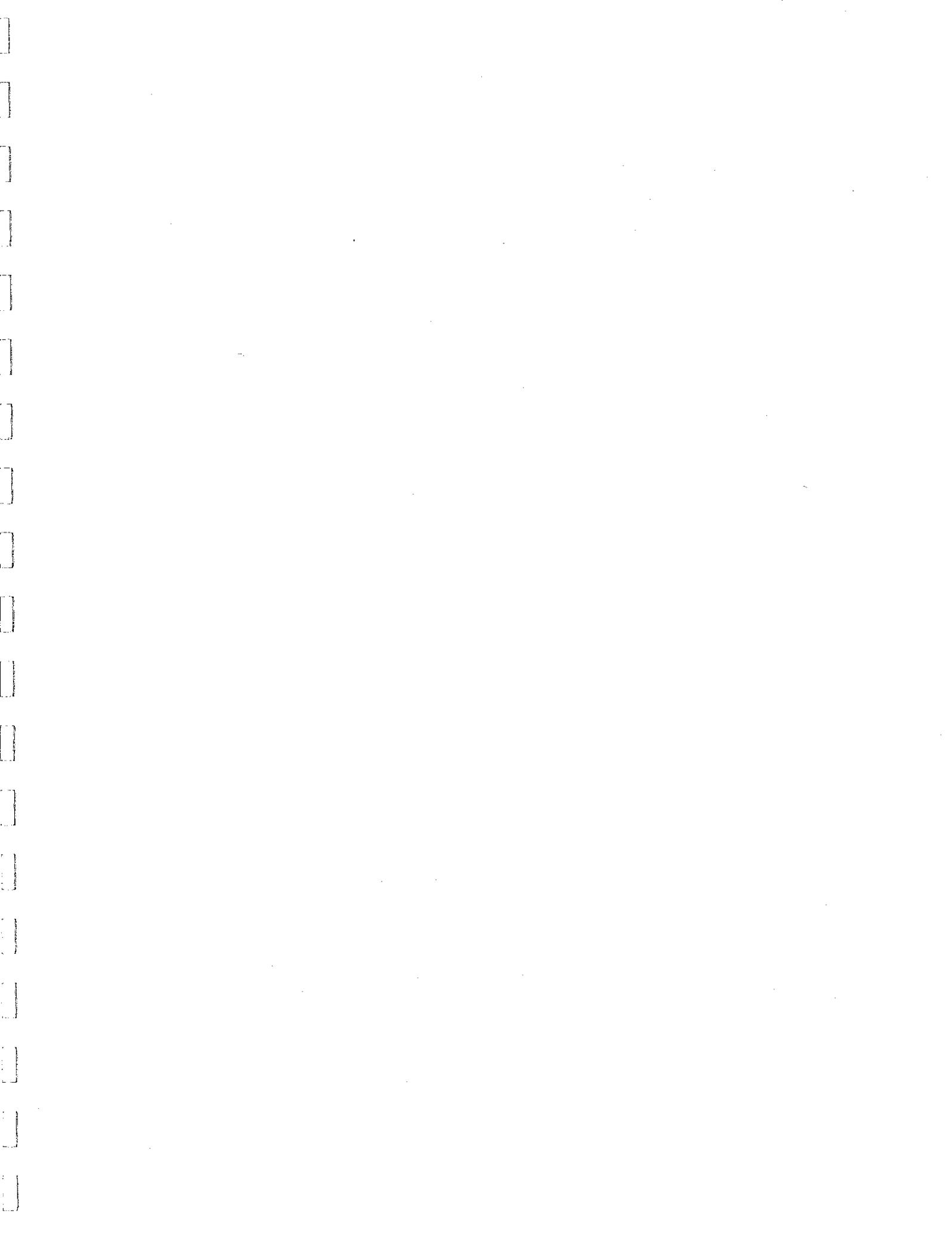

Michael Carsella

SWORN TO AND SUBSCRIBED to before me on this 3rd day of May 2011.


Notary Public

503466962.1







PROPERTY INSIGHT

505 East North Avenue, Suite 200 • Carol Stream, IL 60188 • Telephone 630-510-4190 • Facsimile 630-488-4896

October 5, 2010

VIA FEDERAL EXPRESS

Lillian J. Greene, Cuyahoga County Recorder
Cuyahoga County Recorder's Office
1219 Ontario Street
Cleveland, Ohio 44113

Re: *Public Records Act Request*

Dear Ms. Greene:

On behalf of Property Insight LLC, I am writing to request, under the Ohio Open Records Act, R.C. 149.43, electronic copies of all documents publicly recorded in the Cuyahoga County Recorder's Office in the months of July and August 2010. I understand that these documents are currently maintained by your office in electronic form. Property Insight does not object to you not producing military discharges recorded during those two months.

Alternatively, if it would be less work for you to provide us with electronic copies of only the first 100 documents publicly recorded on each day of July and August, 2010, we are willing to accept electronic copies of only those documents in lieu of electronic copies of every document publicly recorded in July and August, 2010.

Under R.C. 149.43(B)(6), please provide copies in electronic form on a compact disc (CD). Please produce the electronic copies in a format that does not modify the original document, and without any type of watermark image.

Your office has a policy or practice of imposing a charge for all copies of recorded documents, whether imaged or paper, of \$2.00 per page or image. This policy is contrary to Ohio law. Ohio Revised Code § 317.32(f) provides that only *photocopies*, i.e., *paper* copies of recorded documents, are subject to the \$2.00 per page copy fee. Conversely, electronic images and other *nonpaper* copies of recorded documents are subject to the general "at cost" standard under R.C. 149.43(B)(1).

Before adopting its current non-conforming policy, your office had provided electronic copies each day. Your office provided them on CD for a copying charge of \$50 per CD. Although that

Lillian J. Greene, Cuyahoga County Recorder
October 5, 2010
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fee exceeds the maximum allowed under the Public Records Act, Property Insight is willing to resume paying it.

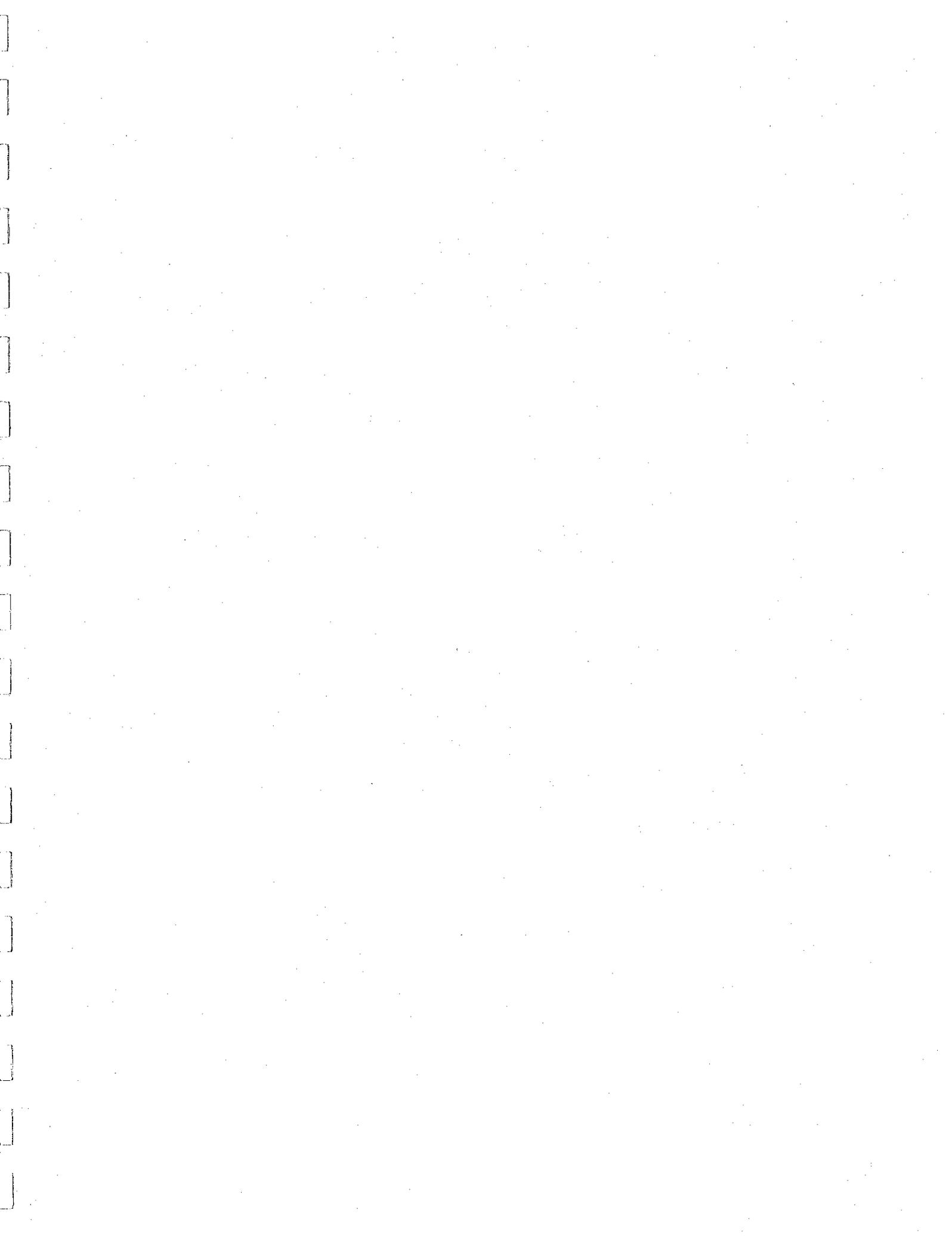
If your office seeks to impose a higher fee, we will insist that your office charge no more than the actual cost to your office of producing the requested electronic images. Accordingly, please consider this letter a formal demand that your office immediately amend its public record fee policy and practice to comply with Ohio law.

Finally, if you deny any part of this request, under R.C. 149.43(B)(3), please provide me with a written explanation, including legal authority, justifying your denial.

Sincerely,



Mike Carsella
Property Insight
505 East North Ave.
Suite 200
Carol Stream, IL 60188-4848
(630) 510-4190
Mike.Carsella@propertyinsight.biz





PROPERTY INSIGHT

505 East North Avenue; Suite 200 • Carol Stream, IL 60188 • Telephone 630-510-4190 • Facsimile 630-488-4896

Via overnight delivery service

Mr. Mark Parks
Acting Fiscal Officer
Department of the Recorder
Cuyahoga County
2d Floor
Cuyahoga County Administration Bldg.
1219 Ontario Street
Cleveland, Ohio 44113

Re: Potential misunderstanding about Public Records Act request of Oct. 5, 2010

Dear Mr. Parks:

This follows up on the request that I made for copies of recorded instruments on October 5, 2010, which is one of the requests at issue in the pending lawsuit *Data Trace Info. Services, et. al. v. Recorder of Cuyahoga County*.

I am Vice President of Midwest Operations for Property Insight, LLC. I am one of the parties to the suit, as is Property Insight.

I understand that the change in Cuyahoga County government has resulted in significant institutional changes since the date of my October 5 request, and since our lawsuit began.

From remarks by representatives of your office that I have seen recently, I suspect that there may be a misunderstanding about the mechanics of how the recorder's office could comply with my October 5 request.

For over a decade, the recorder's office has scanned deeds, mortgages, and other instruments into its computer system, making digital images of each instrument. The recorder's office keeps those images as computer files.

As a backup, the recorder's office copies those original digital images onto what the office calls a "Master CD" – a compact disc. Each Master CD has backup copies of the original digital images of deeds, mortgages, and other instruments that the recorder's office recorded on one specific day.

My request for digital copies of deeds, mortgages, and other instruments recorded in July and August, 2010 – onto CD and without the watermarks that appear on the recorder's website – does not require your personnel to scan any paper record onto a compact disc.

The effect of my October 5 request is to ask your office to dub onto blank CDs the Master CDs covering July and August, 2010.

Your office has a CD writer with multiple CD drives that allow your office to dub onto several blank CDs simultaneously the contents of one Master CD.

Of course, we still ask that the recorder's department adopt a policy that applies the "at cost" provisions of the Public Records Act to the dubbed CDs or that the recorder's office reinstate the \$1/per CD policy that the recorder's office deleted a few days after our lawyer deposed Lillian Greene in this suit, applying that policy to the dubbed CDs.

Sincerely,



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cc:

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