

Edward G. Schneider III

9575 Redwing Street
Angola, New York 14006
(716) 549-7283

RECEIVED



SEP 30 2020

Lynn M. Krajacic
Town Clerk
Town of Evans

Wednesday, September 30, 2020

FOIL Appeal Officer
Supervisor Mary Hosler
8787 Erie Road
Angola, NY 14006

Dear Supervisor Hosler:

On 7-15-2020, I requested documents under the Freedom of Information Law (FOIL) (See Attachment #1) for the 2020 Assessment Data in Excel format. I cited state law that allows me to request the data in Excel Format.

On 9-24-2020, I received an email from the Clerk's Office stating data in Excel format does not exist. See (Attachment #2)

I contacted the New York State Committee On Open Government to verify there was no changes to state law. (See Attachment #3)

Since 2007, I have received the current year's assessment data in Excel format. It is ludicrous to believe that the town can no longer provide the data in Excel format.

I am appealing the decision not to provide the 2020 assessment data in excel format.

Also, I would like to bring to your attention that on December 13, 2017, the New York Legislature amended Section 89(4)(c) of the Public Officers Law to require courts to award attorney's fees upon a successful challenge to the denial of a FOIL request if an agency lacks a reasonable basis for the denial. As set forth in Public Officers Law Section 86(3), an agency includes any state or municipal department or board, as well as public authorities, public corporations and any other governmental entity performing governmental functions.

Since there was no written explanation for a denial of records, I am appealing this denial of records and request these documents be provided.

Should you have any questions regarding this appeal please do not hesitate to contact me by email or by calling 549-7283.

Very truly yours,

Edward G. Schneider III

ATTACHMENT #1

Edward G. Schneider III

9575 Redwing Street
Angola, New York 14006
(716) 549-7283

Wednesday, July 15, 2020

TO: Freedom of Information Officer of the Town of Evans

This request is made pursuant to the New York State Freedom of Information Law (FOIL), found in Article 6 of the Public Officers Law, and the Federal Freedom of Information Act (FOIA) found at 5 U.S.C. § 552 and in the provisions of 29 CFR § 70.1. I will pay any reasonable fees required by law. Please respond to this request within the number of business days as required by the above-referenced statutes. If any portion of my request is denied, please inform me in writing of the reasons for the denial, together with the name and address of the person or body to whom an appeal should be directed. Also, if any portion of any document is deemed confidential or exempt from disclosure, we request that any severable, public portion be provided.

REQUESTED DOCUMENTS

RE: 2020-2021 Assessment Data Exported To An Excel File

I am requesting that all assessment data fields be exported to the Excel file.

NOTE: NYS COOG opinion (See <https://docs.dos.ny.gov/coog/ftext/fl7754.html>) allows for request of Excel file)

Additionally, in a decision that cited Brownstone, it was held that: "[a]n agency which maintains in a computer format information sought by a F.O.I.L. request may be compelled to comply with the request to transfer information to computer disks or tape" (Samuel v. Mace, Supreme Court, Monroe County, December 11, 1992). That decision involved a request for a school district wide mailing list in the form of computer generated mailing labels. Since the district had the ability to generate the labels, the court ordered it to do so.

For the purposes of these requests, "records" shall mean any information kept, held, filed, produced or reproduced by, with or for the Town Of Evans, in any physical, electronic or digital form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photographs, videotapes, films, microfilms, digital files, email, computer tapes or discs, regulations, or codes. Additionally, I am requesting that the Town Of Evans preserve the requested items for use in any future litigation.

If any expenses in excess of \$0.25 per copy or a total cost of \$5.00 are incurred in connection with this request, please obtain my approval before any charges are incurred.

Should you have any questions regarding this request, please do not hesitate to contact me by email or by calling 549-7283.

Very truly yours,



Edward G. Schneider III

FN: FOIL-2020-07-17-Assessment-Data.wpd

ATTACHMENT #2

From: Lynn Wolf <lwolf@townofevans.org>
To: Ed Schneider <EdSchneider0105@computerbroker.com>
Date: Thursday, September 24, 2020 1:41:32 PM
Subject: FOIL 2020 #48
Folder: TownOfEvans/Ed Schneider

Ed,



It does not exist in the format requested so you have been provided the Town's response and you can appeal by contacting the Town Supervisor at supervisor@townofevans.org.

Lynn Wolf
Deputy Town Clerk
Deputy Registrar of Vital Statistics
FOIL Assistant for the Records Officer
Town of Evans
8787 Eric Road / Angola NY 14006
716-549-8787
Fax: 716-217-3595
Email: lwolf@townofevans.org




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From: Lynn Krajacic
Sent: Monday, September 21, 2020 4:06 PM
To: Lynn Wolf <lwolf@townofevans.org>
Subject: FW: FOIL: assessment data

From: Ed Schneider <EdSchneider0105@computerbroker.com>
Sent: Monday, September 21, 2020 11:57 AM
To: Lynn Krajacic <lkrajacic@townofevans.org>; Lynn Wolf <lwolf@townofevans.org>
Subject: FOIL: assessment data

Lynn / Lynn:

 **From:** 3Doodler 66 KB
Subj: Available Now: New Leami... 8:26 AM

Any word on when the assessment data will be made available as an Excel file?

Ed

ATTACHMENT #3

From: dos.sm.Coog.InetCoog <dosCOOG@dos.ny.gov>
To: Ed Schneider <EdSchneider0105@computerbroker.com>
Date: Friday, September 25, 2020 6:35:29 AM
Subject: FOIL Question
Folder: In/Ed Schneider

Good Morning Mr. Schneider,



If the Town is able to, it should provide you with the record in your preferred format.

Kristin O'Neill

From: Ed Schneider <EdSchneider0105@computerbroker.com>
Sent: Thursday, September 24, 2020 2:55 PM
To: dos.sm.Coog.InetCoog <dosCOOG@dos.ny.gov>
Subject: FOIL Question

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I've been getting the Town of Evans assessment data in a Microsoft Excel file since 2007.

The town provided the data in a PDF file but that is not the requested format. I requested that the town's foil officer provide me the requested format.

It is ludicrous to believe the reason for the denial since the Excel format is one of the most common formats. If the town can export to PDF, they can export to EXCEL format by selecting the requested format.

Has there been any change in the law that would allow the town to deny providing the data in the requested format?

Thanks;

Ed Schneider