ELECTRONICALLY FILED SEP 16, 2025 CLERK OF SUPREME COURT

IN THE SUPREME COURT OF IOWA

SUPREME COURT NO. 25-0750

JASPER COUNTY NO. CVCV123759

JEREMY CHEDESTER and CHEDESTER PROPERTIES, LLC,
Plaintiffs/Appellants,

vs.

CITY OF NEWTON,
Defendant/Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR JASPER COUNTY, IOWA
HONORABLE TERRY RICKERS, DISTRICT COURT JUDGE

DEFENDANT-APPELLEE'S BRIEF

Matthew S. Brick
BRICK GENTRY, P.C.
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266
Telephone: (515) 274-1450
Facsimile: (515) 274-1488
matt.brick@brickgentrylaw.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES 3
STATEMENT OF ISSUES PRESENTED FOR REVIEW 4
ROUTING STATEMENT 5
STATEMENT OF THE CASE 5
I. Nature of the Case 5
II. Course of Proceedings and Disposition 5
III. Statement of Facts 7
ARGUMENT 9
I. THE DISTRICT COURT PROPERLY DETERMINED A RECORDS REQUEST WAS NOT PROPERLY MADE TO THE CITY. 9
A. Scope of Appellate Review 9
B. Preservation of Error 10
C. Argument 10
i. The District Court did not Take on an Advocate's Role 11
ii. Iowa Code Chapter 22 Records Requests in the City of Newton 16
iii. Chedester's Records Request was not Properly Made and the City did not Refuse to Produce Records 21
iv. Even if there was a Proper Request, the Delay was Reasonable 26
CONCLUSION 29
STATEMENT REGARDING ORAL ARGUMENT 29
CERTIFICATE OF ELECTRONIC FILING 30
CERTIFICATE OF SERVICE 30
CERTIFICATE OF COMPLIANCE 31

TABLE OF AUTHORITIES

Cases

Banwart v. 50th St. Sports, L.L.C., 910 N.W.2d 540, 544 (Iowa 2018).....9

Belin v. Reynolds, 989 N.W.2d 166, 174 (Iowa 2023) 17, 18, 24, 27

Eddy v. Casey's Gen. Store, Inc., 485 N.W.2d 633, 637 (Iowa 1992) 23, 25

Kirkwood Inst. Inc. v. Sand, 6 N.W.3d 1, 8 (Iowa 2024)..... 24, 26

Meredith Outdoor Advert., Inc. v. Iowa Dep't of Transp., Off. of Right of Way, 648 N.W.2d 109, 114 (Iowa 2002).....23

Ranes v. Adams Lab'ys, Inc., 778 N.W.2d 677 (Iowa 2010).....13

Rhoades v. State, 848 N.W.2d 22, 31 (Iowa 2014).....14

State v. Berch, 222 N.W.2d 741, 745 (Iowa 1974) 14

State v. Blanford, 306 N.W.2d 93 (Iowa 1981).....15

Teig v. Chavez, 8 N.W.3d 484 (Iowa 2024).....28

Vermeer v. Sneller, 190 N.W.2d 389, 393 (Iowa 1971) 22

Westco Agronomy Co., LLC v. Wollesen, 909 N.W.2d 212, 218–19 (Iowa 2017).....10

Statutes

Iowa Code § 622.62.....15

Iowa Code section 22.1 18

Iowa Code section 22.10 ..... 16, 17, 26

Iowa Code section 22.2 16

Iowa Code section 22.4 ..... 18, 22, 25

Other Authorities

City of Newton Code of Ordinances section 31.052 ..... 19, 21, 23, 25

City of Newton Code of Ordinances sections 31.085–31.092.....20

FACT, Black's Law Dictionary (12th ed. 2024) 13

Open Records Policy as of City of Newton Resolution #16-057 (Apr. 1, 2016), CITY OF NEWTON, (available at https://www.newtongov.org/DocumentCenter/View/1951/City-of-Newton-Open-Records-Policy-04012016?bidId=)12, 15, 16, 20, 21, 22, 23, 25

Records & Information, NEWTON, IA—OFFICIAL WEBSITE https://web.archive.org/web/20240912230352/https://www.newtongov.org/121/Requesting-Records-Information (archived version dated 9/12/2024).....15

Requesting Records & Information, NEWTON, IA—OFFICIAL WEBSITE, https://www.newtongov.org/121/Requesting-Records-Information (last visited August 22, 2025).....16

Rules

Iowa R. Evid. 5.201.....13

STATEMENT OF ISSUES PRESENTED FOR REVIEW

I. THE DISTRICT COURT PROPERLY DETERMINED A RECORDS REQUEST WAS NOT MADE TO THE CITY.

ROUTING STATEMENT

The Appellee states that the case should be routed to the Iowa Court of Appeals because it involves the application of existing legal principles.

STATEMENT OF THE CASE

I. Nature of the Case

This appeal arises from an Iowa Code section 22.10 (2024) civil enforcement action brought by the Plaintiffs/Appellants, Jeremy Chedester and Chedester Properties, LLC, against the City of Newton, Iowa (the "City"), alleging that the City had refused to produce records under Iowa Code Chapter 22, Iowa's open records law. Appellants appeal the District Court's Order Granting the City's Motion for Summary Judgment entered on April 30, 2025, by Judge Rickers. D0024, Order Granting Motion for Summary Judgment (4/30/2025) ("Ruling").

Appellants appeal the District Court's finding that a records request was not made to the City.

II. Course of Proceedings and Disposition

On July 9, 2024, Appellants filed their Petition against the City of Newton asserting a claim under Iowa Code section 22.10 and alleging

that the City refused to provide Appellants with documents which Appellants claimed to have requested under Iowa Code Chapter 22. D0001, Petition (7/09/2024). The City filed its Answer denying the Appellants claims on August 12, 2024. D0004, Answer and Affirmative Defenses (8/12/2024).

The case proceeded and on January 20, 2025, the City filed a motion for summary judgment. D0013, Defendant's Motion for Summary Judgment (1/20/2025). The City's Motion was accompanied by a brief and statement of undisputed material facts. D0014, Defendant's Statement of Undisputed Material Facts in Support of Motion for Summary Judgment (1/20/2025); D0015, Newton's Brief in Support of Summary Judgment (1/20/2025). Appellants filed a resistance on February 4, 2025. D0017, Resistance to Motion for Summary Judgment (2/05/2025). The City filed a reply to Appellants' resistance on February 11, 2025. D0018, Reply to Plaintiff's Resistance to Defendant's Motion for Summary Judgment (2/11/2025).

A hearing was held on the City's Motion for Summary Judgment on March 25, 2025. D0029, Tr. Hrg. (3/25/2025 filed 5/22/2025). On April 30,

2025, the District Court granted the City's Motion for Summary Judgment. D0024.

Appellants filed their Notice of Appeal on May 6, 2025. D0025, Notice of Appeal (5/6/2025).

III. Statement of Facts

Jeremy Chedester and Chedester Properties, LLC (together "Chedester") own property in Jasper County, Iowa, locally known as 209 W. 2nd Street N, Newton Iowa. D0014 ¶ 1. In 2021, the City filed a Petition for Abatement of Abandoned or Unsafe Building (the "Building Litigation"), and the City and Chedester engaged in two years of protracted litigation following the filing of that petition. D0014 ¶ 2–3; D0024 at 1. The Parties agreed to settle the Building Litigation in or around October 2023. D0014 ¶ 3. Despite this settlement, conflict has continued between the City and Chedester regarding Chedester's refusal to comply with the terms of the settlement for the Building Litigation and 209 W. 2nd Street N. D0014 ¶ 4; D0024 at 1.

On April 24, 2024, Chedester's attorney emailed the City Attorney for the City of Newton. D0017 Attachment at 3, Exh. A, Email from Chedester to City Attorney. The email stated in relevant part:

> Second, it is obvious that Dr. Koenen has received certain assurances from the city administrator or other city staff about what will or will not happen with the common wall. As you know, the repair obligations for a common wall are shared between the property owners. To assist us in moving forward, my client requests pursuant to Iowa Code Chapter 22 that we be provided a copy of all communications, whether by letter, email, text message, or other form, between Dr. Koenen or his representatives and any city employee, officer, or representative. This request specifically includes communications with your office.

D0017 Attachment at 3. The City Attorney responded to this email on April 25, 2024, stating in response to the relevant portion of Chedester's email, "No assurances have been made to the Koenens other than their northern wall will be left in a condition that complies with the adopted codes for the City." D0017 Attachment at 4.

Chedester never followed up with the City Attorney after receiving the April 25 email, and no formal public records request was ever filed with the City's custodian of records. D0024 at 2.

Two and a half months after the email communication between Chedester's attorney and the City Attorney, Chedester filed a petition against the City alleging the City unreasonably failed to provide records requested pursuant to Iowa Code Chapter 22. D0001 ¶ 12; D00024 at 2. During litigation, Chedester filed a notice of discovery request on

November 11, 2024, but did not include a request for the documents referenced in the April 24 email. D0009, Notice of Discovery Request (11/11/2024). In addition to responding to the discovery requests, the City also provided records responsive to Chedester's April 24th email on December 11, 2024. D0011, Notice of serving Discovery Response (12/11/2024); D0024 at 2–3.

The City's conduct in no way constituted a refusal to produce records under Chapter 22, especially considering that Chedester failed to properly make his records request triggering the City's statutory obligations. Further, even assuming a valid request was made by Chedester, the City's response was timely and reasonable under Iowa law.

ARGUMENT

I. THE DISTRICT COURT PROPERLY DETERMINED A RECORDS REQUEST WAS NOT PROPERLY MADE TO THE CITY.

A. Scope of Appellate Review

The District Court's Order granting the City's Motion for Summary Judgment is reviewed for correction of errors at law. *Banwart v. 50th St. Sports, L.L.C.*, 910 N.W.2d 540, 544 (Iowa 2018). "Summary judgment is

proper when the moving party has shown there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Westco Agronomy Co., LLC v. Wollesen*, 909 N.W.2d 212, 218–19 (Iowa 2017).

B. Preservation of Error

The City agrees Chedester generally preserved error through their resistance to the City's Motion for Summary Judgment. D0017.

C. Argument

After considering the Parties' arguments raised in the Motion, Resistance, Reply, and at the Hearing, the District Court determined there was no refusal to produce records because Chedester had failed to properly submit a records request. D0024. In reaching this conclusion, the Court properly relied on Iowa Code Chapter 22 and the Ordinances of the City of Newton. D0024. The Court did not error in granting Summary Judgment. D0024.

On appeal, Chedester challenges the Court's decision by arguing (1) the City Attorney is an agent of the City, and therefore the City had notice of the request, and (2) the City failed to produce records in a timely

manner even after Chedester filed suit. Chedester argues these factors make any delay in responding a refusal under Iowa Code section 22.10.

Chedester additionally argues the Court considered the properness of the records request without prompting by the Parties, and that it "conducted its own research" on the City's records request policies. These arguments are either wrong, or without effect on the Court's ruling.

i. The District Court did not Take on an Advocate's Role

Although Chedester does not assert it as an independent error, underlying Chedester's arguments is the contention that the District Court examined the properness of the records request *sua sponte*, and that it conducted independent research. Chedester implies these factors may have tainted the District Court's ruling. This is incorrect.

The Court did not raise the issue of the properness of Chedester's records request on its own. Under the City's argument to the District Court, whether the records were properly requested was always a factor in whether a refusal occurred. The City stated in its Brief in Support of Summary Judgment: "[h]ad the plaintiffs . . . made a formal records request to the City's custodian of records, the City would have realized . . ." D0015 at 4. The City expanded on this argument in its Reply, arguing

in detail that the improper nature of the records request establishes any delay was not unreasonable. D0018 at 3–5. The argument that the improper nature of the request established no refusal occurred was presented to the District Court, and the District Court properly ruled on that argument.

Chedester also argues the District Court "conducted its own research," by examining the City's website to determine the City's records request policies. The District Court acted within its authority to do so, and even if it was error, the error did not prejudice Chedester. Without it being cited by the Parties, the District Court looked to the City of Newton's website for the City's open records policies. D0024 at 5–6. Additionally, City of Newton Resolution #16-057, establishing the City's open record policy, was cited by the City in its Reply. D0018 at 4; *Open Records Policy as of City of Newton Resolution #16-057* (Apr. 1, 2016), CITY OF NEWTON, (available at https://www.newtongov.org/DocumentCenter/View/1951/City-of-Newton-Open-Records-Policy-04012016?bidId=). Therefore, it was appropriate for the Court to review the Policy.

First, Iowa Courts may consider legal facts outside of the record. *Ranes v. Adams Lab'ys, Inc.*, 778 N.W.2d 677, 697 n. 4 (Iowa 2010) ("Generally, courts may consider authority outside the record in interpreting statutes and legislative facts. However, the facts the plaintiff proposes to include are evidentiary, not legal, in nature and will therefore be excluded from our discussion."). A "legal fact" is defined as "[a] fact concerning the state of the law." FACT, Black's Law Dictionary (12th ed. 2024). The City's open records policy, established pursuant to Iowa Code section 22.4 and City of Newton Resolution #16-057, is a legal rather than evidentiary fact, and its consideration in this manner was proper. *See Ranes*, 778 N.W.2d at 697 n. 4.

Additionally, even if it is not a legal fact, a court "[m]ay take judicial notice on its own" of an adjudicative fact "that is not subject to reasonable dispute because it: (1) Is generally known within the trial court's territorial jurisdiction; or (2) Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Iowa R. Evid. 5.201. "An adjudicative fact is '[a] controlling or operative fact, rather than a background fact; a fact that concerns the parties to a judicial or administrative proceeding and that helps the court or agency

determine how the law applies to those parties.'" *Rhoades v. State*, 848 N.W.2d 22, 31 (Iowa 2014) (quoting *Black's Law Dictionary* 669 (9th ed.2009)). The City's policies on open records requests are an operative fact because they control the way Chedester should have made his records request. *See id.* The Iowa Supreme Court has found "[j]udicial notice may be taken of departmental rules and regulations adopted pursuant to statutory authority." *State v. Berch*, 222 N.W.2d 741, 745 (Iowa 1974). At issue here is the rule of a City adopted pursuant to statutory authority. Although the City is not a department, the situations are similar, and the same principles should be applicable. *See id.* ("Judicial notice has been defined as the act by which a court, in conducting a trial, or framing its decision, will, of its own motion, and without production of evidence, recognize the existence and truth of certain facts, having a bearing on the controversy at bar, which, from their nature, are not properly the subject of testimony, or which are universally regarded as established by common notoriety."). Supporting this, courts in Iowa may take judicial notice of City Ordinances, "When properly pleaded, the courts of this state shall take judicial notice of

ordinances contained in a city code or city code supplement." Iowa Code § 622.62 (2025).[1]

Finally, even where a court erroneously considers facts outside of the record, if that consideration is harmless, it is not reversible error. *State v. Blanford*, 306 N.W.2d 93, 98 (Iowa 1981). The District Court's consideration of the website itself was harmless for two reasons. First, the City cited City of Newton Resolution #16-057, which includes essentially the same information as the website, including asking that all parties submit a public records request form to the custodian of records. Since substantially the same information was properly before the Court, it was harmless for the Court to look to the website. Second, a review of the previous version of the website and the version as cited by the District Court reveals no substantial difference in content. *Compare* Records & Information, NEWTON, IA—OFFICIAL WEBSITE https://web.archive.org/web/20240912230352/https://www.newtongov.org/121/Requesting-Records-Information (archived version dated 9/12/2024) and Requesting Records & Information, NEWTON, IA—

[1] Again, the City referenced City of Newton Resolution #16-057, which establishes the City of Newton's open records policy, in its Reply. D0018 at 4.

OFFICIAL WEBSITE, https://www.newtongov.org/121/Requesting-Records-Information (last visited August 22, 2025). To this end, it should be noted "[j]udicial notice may be taken on appeal."[2] *State v. Washington*, 832 N.W.2d 650, 655 (Iowa 2013).

Ultimately, Chedester's argument that the District Court may have taken erroneous *sua sponte* action is without merit as the information was already discussed in the City's Reply and any consideration was harmless. D0018 at 3–5.

ii. Iowa Code Chapter 22 Records Requests in the City of Newton

Iowa Code section 22.2 establishes: "Every person shall have the right to examine and copy a public record." Iowa Code section 22.10 provides for civil enforcement of this right: "Any aggrieved person, any taxpayer to or citizen of the state of Iowa, or the attorney general or any county attorney, may seek judicial enforcement of the requirements of this chapter."

[2] To the extent it is not sufficiently in the record because of the District Court's Order and the City's Reply, the City's open records policy should be judicially noticed on appeal for proper consideration of the issues in this case. *See Open Records Policy as of City of Newton Resolution #16-057* (Apr. 1, 2016), CITY OF NEWTON, (available at https://www.newtongov.org/DocumentCenter/View/1951/City-of-Newton-Open-Records-Policy-04012016?bidId=).

In an action for judicial enforcement:

> Once a party seeking judicial enforcement of this chapter demonstrates to the court that the defendant is subject to the requirements of this chapter, that the records in question are government records, and that the defendant refused to make those government records available for examination and copying by the plaintiff, the burden of going forward shall be on the defendant to demonstrate compliance with the requirements of this chapter.

Iowa Code § 22.10. At issue in this case is whether the City refused to make the government records available to Chedester. Specifically, whether the City's initial email response constituted an implied refusal. D0001, Petition (7/09/2024) ("The City refused to produce the requested records by . . . its unreasonable delay in producing the records.").

Under Iowa Code section 22.10, "a defendant may 'refuse' either by (1) stating that it won't produce records, or (2) showing that it won't produce records." *Belin v. Reynolds*, 989 N.W.2d 166, 174 (Iowa 2023). And "this second kind of refusal—an implied or 'silent' refusal—can be shown through an unreasonable delay in producing records." *Id.* In determining whether refusal to produce records occurred:

> Relevant inquiries may include: (1) how promptly the defendant acknowledged the plaintiff's requests and follow-up inquiries, (2) whether the defendant assured the plaintiff of the defendant's intent to provide the requested records, (3) whether the defendant explained why requested records

> weren't immediately available (e.g., what searches needed to be performed or what other obstacles needed to be overcome), (4) whether the defendant produced records as they became available (sometimes called "rolling production"), (5) whether the defendant updated the plaintiff on efforts to obtain and produce records, and (6) whether the defendant provided information about when records could be expected.

Id. at 175.

In determining whether a refusal occurred, the process for requesting records under Chapter 22 should also be considered. Iowa Code section 22.4 sets out:

> The rights of persons under this chapter may be exercised under any of the following circumstances:
>
> 1. In person, at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.
> 2. In writing, by telephone, or by electronic means. The lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.

Records requests under Iowa Code Chapter 22 are made through the lawful custodian of those records. *Id.* Iowa Code section 22.1 defines a "lawful custodian" as:

> the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of this chapter and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated.

The City of Newton has designated certain officials and employees to implement the requirements of Chapter 22. Under the City of Newton Code of Ordinances section 31.052 (B) provides, "[t]he Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the city is a party in interest unless otherwise specifically directed by law or ordinance." While Code of Ordinances section 33.24 (B)(9) states the City Fire Chief will keep "records of the fire department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location and an analysis of losses by value, type and location of buildings."

The record-keeping roles of these employees is confirmed by the City's open records policy under City of Newton Resolution #16-057 (Apr.

1, 2016), which sets out the process for requesting records from the City of Newton:

> The Police Chief is the lawful custodian of police records, the Fire Chief is the lawful custodian of fire records, the Library Director is the lawful custodian of library records, and the City Clerk is the lawful custodian of all other city records. Requests for records should be made to the lawful custodian of said records.

Absent from this directive is any mention of the City Attorney, and further, the City of Newton Code of Ordinances sections 31.085–31.092, on the City Attorney, do not grant any record-keeping powers to the City Attorney. Additionally, the City's open records policy under City of Newton Resolution #16-057 asks that individuals making a records request complete a public records request form "to allow the city to promptly respond to all requests." In this case, the April 24 email request was made directly to the City Attorney, not to the designated custodian. No copy of the request was sent to City Clerk, and no formal records request was filed with the City by any means (in person, email, mail or otherwise). Because Chedester failed to direct his request to the City's lawful custodian, the City did not refuse to produce records under Chapter 22.

iii. Chedester's Records Request was not Properly Made and the City did not Refuse to Produce Records

Chedester's records request was not properly made pursuant to Iowa Code Chapter 22 and the City of Newton's policies or ordinances. Because of this, he cannot establish the City refused to produce records, and summary judgment was appropriately granted.

Chedester made his alleged records request by an email from his attorney to the City's city attorney. D0017 at Exh. A. But pursuant to Iowa Code section 22.4, records requests made by electronic means must be made pursuant to the directions posted by the lawful custodian of those records: "[t]he lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information." The lawful custodian of the records in question in this case is the City of Newton, and pursuant to City of Newton Code of Ordinances section 31.052 (B) and City of Newton Resolution #16-057, the city clerk has been delegated responsibility for the particular records at issue in this case. This, and the City's policy that records requests be made through a public records form, is outlined in the City's Open Records Policy, as of City of Newton Resolution #16-057 (available at

https://www.newtongov.org/DocumentCenter/View/1951/City-of-Newton-Open-Records-Policy-04012016?bidId=).

Chedester's request was made by email only to the city attorney, not to the city clerk, and not via a public records form. D0017 at Exh. A. The District Court properly concluded that Chedester's request was not properly made, and therefore Chedester could not show the refusal necessary for civil enforcement under Iowa Code section 22.10. D0024 at 7.

Chedester now argues for the first time on appeal the principles of agency law made the request proper and the delay unreasonable. It is true that "[t]he general rule is that the principal is chargeable with, and bound by, the knowledge of or notice to his agent received while the agent is acting as such within the scope of his authority and in reference to a matter over which his authority extends." *Vermeer v. Sneller*, 190 N.W.2d 389, 393 (Iowa 1971). But in the case of a Chapter 22 records request, the statute specifically states that requests may be made electronically under the direction of the lawful custodian. Iowa Code § 22.4. "It is well-established that when a statute . . . gives a right and creates a remedy unknown at the common law, and at the same time points to a specific

method by which that liability can be ascertained and the right assessed, this method must be strictly pursued." *Eddy v. Casey's Gen. Store, Inc.*, 485 N.W.2d 633, 637 (Iowa 1992). The Iowa Legislature has created a specific statutory scheme for open records requests, and the general principles of agency law are not controlling over that scheme. *See id.*

Further, Chedester's citations to *Meredith Outdoor Advert., Inc. v. Iowa Dep't of Transp., Off. of Right of Way*, regarding notice to a designated representative contradict the point he is trying to make because of the very nature of a *designated* representative. 648 N.W.2d 109, 114 (Iowa 2002). In that case, the Iowa Supreme Court stated, "[w]e have long recognized the general rule that notice to an agent is notice to a principal if the agent was acting within his duties in accepting service." *Id.* In the case of a Chapter 22 open records request, the City of Newton's *designated* representative for the receipt of those requests is the city clerk, not the city attorney. City of Newton Code of Ordinances section 31.052 (B); City of Newton Resolution #16-057.

Under Iowa Code Chapter 22, a records request to the City of Newton must be served pursuant to the City's open records policies, and in this case, Chedester's request was not. As the District Court found,

"the City cannot be said to have 'refused' to share documents that were never properly requested." D0024 at 7. And even if there was a request, because it was improper, the City promptly responded the next day. If Chedester wanted additional information, it should have submitted a follow up request instead of waiting several months, then filing a lawsuit. Under these circumstances, the City never expressly or implicitly refused to produce records. *See Belin*, 989 N.W.2d at 174. "'Good-faith, reasonable delay' in producing a public record is not a violation." *Kirkwood Inst. Inc. v. Sand*, 6 N.W.3d 1, 8 (Iowa 2024) (citation omitted).

Chedester also argues that the continued delay after Chedester filed his Petition was unreasonable, and therefore, summary judgment should not have been granted. Chedester filed his Petition on July 9, 2023. D0001, Petition (7/09/2024). But this glosses over the improper nature of his request. Once again, Iowa Code section 22.4 sets forth specific circumstances under which a records request may be made:

> The rights of persons under this chapter may be exercised under any of the following circumstances:
> 1. In person, at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, unless the person

> exercising such right and the lawful custodian agree on a different time.
> 2. In writing, by telephone, or by electronic means. The lawful custodian of the records shall post information for making such requests in a manner reasonably calculated to apprise the public of that information.

And as discussed, Chedester made no records request pursuant to Iowa Code section 22.4. City of Newton Code of Ordinances section 31.052 (B); City of Newton Resolution #16-057. At no time, even after initiating this action, did Chedester move to make a proper records request. D0024 at 2–3. Consequently, the records were never requested from the City. In fact, even when Chedester made his discovery requests in litigation, he did not request the records. D0024 at 3. However, despite Chedester's failure to make such request, the City provided a complete response to Chedester's requests along with its responses to the remainder of the discovery. D0024 at 3. Again, "[i]t is well-established that when a statute . . . gives a right and creates a remedy unknown at the common law, and at the same time points to a specific method by which that liability can be ascertained and the right assessed, this method must be strictly pursued." *Eddy*, 485 N.W.2d 637. Together, Iowa Code section 22.4 and the City of Newton's Open Records Policy outline the specific method by which a records request to the City may be made. Chedester's failure to

make such a request prevents him from asserting the City refused to produce records under Iowa Code section 22.10.

The District Court properly concluded summary judgment was warranted because the City cannot refuse a request which was never made.

iv. Even if there was a Proper Request, the Delay was Reasonable

Although there was no proper records request to respond to, even if there had been, any delay in responding was not unreasonable, and it did not constitute a refusal under Iowa law.

"'Good-faith, reasonable delay' in producing a public record is not a violation." *Kirkwood Inst. Inc.*, 6 N.W.3d at 8 (citation omitted). After years of litigation between the City and Chedester, Chedester's attorney sent an email to the City Attorney seeking information related to the ongoing dispute. D0014 ¶¶ 3, 5. This included a reference to getting documents under Chapter 22. D0014 ¶ 5. The City Attorney emailed Chedester's counsel back the very next day, and provided responsive information to Chedester's inquiry, but did not provide the underlying documentation. D0014 ¶ 6. While this may not have included the physical records themselves, it showed that the City acknowledged and addressed

the concern and demonstrated transparency. After this single exchange, there was no follow-up from Chedester, or any indication that the initial response was insufficient until this action was filed. D0014 ¶ 7; D0001.

In determining whether a delay in response was unreasonable, the Iowa Supreme Court has set out a non-exhaustive list of six factors:

> Relevant inquiries may include: (1) how promptly the defendant acknowledged the plaintiff's requests and follow-up inquiries, (2) whether the defendant assured the plaintiff of the defendant's intent to provide the requested records, (3) whether the defendant explained why requested records weren't immediately available (e.g., what searches needed to be performed or what other obstacles needed to be overcome), (4) whether the defendant produced records as they became available (sometimes called "rolling production"), (5) whether the defendant updated the plaintiff on efforts to obtain and produce records, and (6) whether the defendant provided information about when records could be expected.

Belin, 989 N.W.2d at 175. Considering these factors and the facts of this case, any delay by the City was not unreasonable. The City Attorney responded to Chedester's email after only one day. D0014 ¶¶ 5–6. And without any follow-up from Chedester, the City Attorney "considered the matter closed." D0024 at 7. The factors outlined in *Belin* specifically contemplate follow-up requests. *Belin*, 989 N.W.2d at 175. And in the Iowa Supreme Court has acknowledged that communication between the requester and the governmental entity can narrow the scope of a request.

Teig v. Chavez, 8 N.W.3d 484, 498 (Iowa 2024) ("Teig originally requested documents related to the city attorney position on October 21. After exchanging multiple emails with Feldmann, he narrowed his request on November 3."). The City Attorney responded to Chedester's inquiry, and Chedester then left the matter alone until deciding to file a lawsuit several months later—then failing to request the documents as part of discovery. As opposed to the actions of Chedester, there is nothing unreasonable in the City's actions.

It is also worth noting that to the extent Chedester's request to the City was within the scope of the ongoing litigation between the Parties, the District Court concluded it was "more properly categorized as a discovery request." D0024 at 7. Considering this and the context of Chedester's email to the City Attorney, the response by the City Attorney was not unreasonable. Even assuming a valid Chapter 22 request was made, the City acted lawfully, reasonably and in good faith, responding promptly, producing records in discovery and at no point refusing access. Any delay was justified under Iowa law and no violation occurred.

CONCLUSION

For the reasons set forth above, Appellee, the City of Newton, Iowa, respectfully requests the Court affirm the April 30, 2025, Order Granting Motion for Summary Judgment entered by the Honorable Terry Rickers.

STATEMENT REGARDING ORAL ARGUMENT

Appellees do not request oral argument in this case but would request the right to participate in oral argument if it is granted.

Respectfully submitted,

BRICK GENTRY, P.C.



By: _____

Matthew S. Brick (AT0001081)
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266
Telephone: (515) 274-1450
Facsimile: (515) 274-1488
matt.brick@brickgentrylaw.com
ATTORNEYS FOR
DEFENDANT-APPELLEE

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that I have filed the attached Defendant-Appellee's Brief with the Clerk of the Iowa Supreme Court through the Electronic Document Management System on September 16, 2025.



Matthew S. Brick
Attorney for Defendant-Appellee

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September, 2025, I served the attached Defendant-Appellee's Brief through the Electronic Document Management System upon the following attorneys:

Alan R. Ostergren
ALAN R. OSTERGREN, PC
500 East Court Avenue, Suite 420
Des Moines, Iowa 50309
(515) 207-0134
alan.ostergren@ostergrenlaw.com



Matthew S. Brick
Attorney for Defendant-Appellee

CERTIFICATE OF COMPLIANCE

This Brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1), because this Brief contains 5,012 words, excluding the parts of the Brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

2. This Brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f), because the Brief has been prepared in a proportionally spaced typeface using Century Schoolbook font and utilizing the Microsoft 365 version of Microsoft Word in 14-point font plain style.



Matthew S. Brick
Attorney for Defendant-Appellee