

**IN THE CIRCUIT COURT OF THE 7TH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS  
CHANCERY DIVISION**

JUDICIAL WATCH, INC., )  
501 School Street, S.W., Suite 500 )  
Washington, DC 20024, )  
)  
Plaintiff, )  
)  
vs. )  
)  
THE OFFICE OF THE GOVERNOR, )  
207 State House )  
Springfield, IL 62706, )  
)  
and )  
)  
ROD R. BLAGOJEVICH, in his )  
official capacity as Governor of )  
the State of Illinois, )  
207 State House )  
Springfield, IL 62706, )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No.:

**COMPLAINT IN CHANCERY FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE RELIEF**

NOW COMES the Plaintiff, Judicial Watch, Inc., by and through its attorney, and prays that this Court render a declaratory judgment in its favor and grant it injunctive relief under the Freedom of Information Act, 5 ILCS § 140/1, *et seq.* For its Complaint, Plaintiff states as follows:

1. Plaintiff Judicial Watch, Inc. is a non-profit, educational organization that promotes integrity, transparency, and accountability in government, among other goals, by

obtaining public documents under state and federal “open records” laws, analyzing those documents, and disseminating them to the public.

2. Defendants are the Office of the Governor, a “public body” as that term is defined by 5 ILCS § 140/2(a), and Rod R. Blagojevich, who is being sued in his official capacity as Governor of the State of Illinois.

3. On March 20, 2008, Plaintiff sent a letter to Governor Rod R. Blagojevich requesting that the Office of the Governor produce the following categories of public records:

- i. Any and all records concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
- ii. Any and all communications between House Speaker Michael J. Madigan, Governor Rod R. Blagojevich, and/or the Office of the Governor concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
- iii. Any and all communications between Senate President Emil Jones, Jr., Governor Rod Blagojevich, and/or the Office of the Governor concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
- iv. Any and all agreements by or between Senate President Emil Jones, Jr., House Speaker Michael J. Madigan, and/or Governor Rod Blagojevich concerning or relating to any member initiative or earmarked appropriation for Fiscal Year 2008.

A true and correct copy of the request is attached hereto and incorporated herein as Exhibit A.

4. For purposes of the request, the terms “gubernatorial or legislative member initiative” was defined as the following:

An appropriation for a grant or distribution to a specific unit of local government, specific school district, specific-not-for-profit organization, or specific non-governmental entity for infrastructure improvements or operating expenses. Appropriations that are part of a statewide program and are based on generally applicable standards of eligibility are not gubernatorial or legislative member initiatives. Infrastructure improvements include without limitation capital improvements, capital projects, planning, construction, reconstruction, equipment, utilities, vehicles, and all costs associated with economic development, community programs, educational programs, public health, and public safety.

*See Exhibit A.*

5. Also for purposes of the request, the term “earmarked appropriation” was defined as the following:

An appropriation that is: requested by only one member of the Illinois General Assembly; not specifically authorized by an authorizing committee; not awarded through a competitive process or formula; not subject to Illinois Senate or Illinois House of Representative hearings or debate; or serves only a local or special interest.

*See Exhibit A.*

6. The request was served by facsimile and certified U.S. Mail, and was received by the Office of the Governor on March 24, 2008 at the latest.

7. The Office of the Governor failed to respond to Plaintiff’s request in any manner, much less within the seven (7) working days required by 5 ILCS § 140/3(c). Pursuant to 5 ILCS §140/3(c), the Office of the Governor’s failure to respond is considered a denial of the request.

8. On April 30, 2008, Plaintiff appealed the denial of its request to Governor Blagojevich. The request was served by facsimile and certified U.S. Mail, and was received by the Office of the Governor on May 6, 2008 at the latest. A true and correct copy of Plaintiff’s appeal is attached hereto and incorporated herein as Exhibit B.

9. Pursuant to ILCS § 140/10(a), Governor Blagojevich was required to respond to Plaintiff's administrative appeal within seven (7) working days, or by May 15, 2008 at the latest.

10. As of July 25, 2008, Governor Blagojevich has failed to respond to Plaintiff's appeal in any manner.

**COUNT I**

(Violation of the Illinois Freedom of Information Act, 5 ILCS § 140/1, *et seq.*)

11. Plaintiff reaffirms paragraphs 1-10 as if fully restated herein.

12. Plaintiff is being irreparably harmed by Defendants' failure to produce the requested public records, as Plaintiff is being denied its legal right to inspect public records under the Illinois Freedom of Information Act, 5 ILCS § 140/1, *et seq.*

13. Plaintiff has no adequate remedy at law.

**WHEREFORE**, Plaintiff prays that the Court:

A. Declare Defendants to be in violation of the Illinois Freedom of Information Act, 5 ILCS § 140/1, *et seq.*;

B. Enjoin Defendants from continuing to withhold access to any and all non-exempt public records responsive to Plaintiff's March 20, 2008 request and further enjoin Defendants to produce any and all such records to Plaintiff without further delay;

C. Enjoin Defendants to prepare, forthwith, an affidavit declaring that they have fully and completely complied with Plaintiff's March 20, 2008 request and further declaring that any and all non-exempt public records responsive to the request have been produced to Plaintiff;

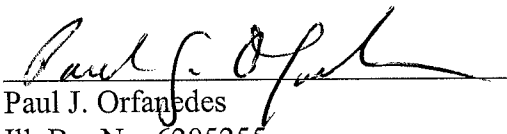
D. Order Defendants to prepare, forthwith, an affidavit identifying with specificity any and all public records responsive to Plaintiff's March 20, 2008 request that are claimed to be subject to legal exemption from disclosure and further identifying with specificity the reason(s) for any such claim of exemption;

E. Award Plaintiff reasonable attorney's fees and costs; and

F. Order such other and further relief as the Court finds just and equitable.

Dated: July 31, 2008

Respectfully submitted,



Paul J. Orfanedes

Ill. Bar No. 6205255

JUDICIAL WATCH, INC.

501 School Street, S.W., Suite 500

Washington, DC 20024

Tel.: (202) 646-5172

Fax.: (202) 646-5199

*Attorneys for Plaintiffs*

**EXHIBIT A**

# Judicial Watch, Inc.

501 School Street, S.W.  
Suite 500  
Washington, D.C. 20024

Telephone 202-646-5172  
Facsimile 202-646-5199

## FACSIMILE TRANSMISSION

TO: Governor Rod R. Blagojevich

FIRM: OFFICE OF THE GOVERNOR

FROM: Paul J. Orfanedes

DATE: March 20, 2008

TELECOPY NUMBER: (217) 524-4049

NUMBER OF PAGES (Including Cover Page): 4

Our Reference No.: 500

If you do not receive all pages in good condition, please call us at: (202) 646-5172.



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is above the law!*

**VIA FACSIMILE (217-524-4049)**  
**AND CERTIFIED U.S. MAIL**

March 20, 2008

Governor Rod R. Blagojevich  
Office of the Governor  
207 State House  
Springfield, IL 62706

**Re: Illinois Freedom of Information Act Request**

Dear Governor Blagojevich:

Judicial Watch, Inc. and the Americans for Prosperity Foundation hereby request that the Office of the Governor produce the following public records pursuant to the provisions of the Illinois Freedom of Information Act, 5 Ill. Comp. Stat. Ann. 140/1 *et seq.*:

1. Any and all records concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
2. Any and all communications between House Speaker Michael J. Madigan, Governor Rod R. Blagojevich and/or the Office of the Governor concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
3. Any and all communications between Senate President Emil Jones, Jr., Governor Rod R. Blagojevich, and/or the Office of the Governor concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.
4. Any and all agreements by or between Senate President Emil Jones, Jr., House Speaker Michael J. Madigan, and/or Governor Rod R. Blagojevich concerning or relating to any gubernatorial or legislative member initiative or earmarked appropriation for Fiscal Year 2008.



For purposes of this request, the term “gubernatorial or legislative member initiative” shall mean the following:

An appropriation for a grant or distribution to a specific unit of local government, specific school district, specific-not-for-profit organization, or specific non-governmental entity for infrastructure improvements or operating expenses. Appropriations that are part of a statewide program and are based on generally applicable standards of eligibility are not gubernatorial or legislative member initiatives. Infrastructure improvements include without limitation capital improvements, capital projects, planning, construction, reconstruction, equipment, utilities, vehicles, and all costs associated with economic development, community programs, educational programs, public health, and public safety.

*See, e.g.*, 95th Ill. Gen. Assem. Senate Bill 1601, 2007 Sess.

Also for purposes of this request, the term “earmarked appropriation” shall mean the following:

An appropriation that is: requested by only one member of the Illinois General Assembly; not specifically authorized by an authorizing committee; not awarded through a competitive process or formula; not subject to Illinois Senate or Illinois House of Representative hearings or debate; or serves only a local or special interest.

Please produce the requested record(s) to Judicial Watch, Inc. at its Washington, DC office, located at 501 School Street, S.W., Suite 500, Washington, DC 20024, within seven (7) working days of your receipt of this request. 5 Ill. Comp Stat. Ann. 140/3(c). If the requested record(s) cannot be produced within seven (7) working days, please notify us in writing of the reason(s) for the delay and the date by which the requested record(s) will be available.

Judicial Watch, Inc. and Americans for Prosperity Foundation request that the above-referenced records be furnished without charge pursuant to 5 Ill. Comp. Stat. 140/6. Judicial Watch, Inc. and Americans for Prosperity Foundation are both 501(c)(3) non-profit educational organizations that seek to promote transparency in government and combat waste, fraud, and abuse in government spending, among other goals. They are undertaking a detailed review of public spending practices in Illinois, including member initiatives and/or earmarked appropriations, about which substantial questions have been raised. *See, e.g.*, “Secret deals passed state budget; Governor’s memos pledged pet projects,” *Chicago Tribune*, June 21, 2006 at 3. The principal purpose of this request is to enable Judicial Watch, Inc. and Americans for Prosperity Foundation to access and analyze the requested information, then disseminate the results of their findings to the public. Waiver or reduction of the fee is therefore in the public

Gov. Rod R. Blagojevich  
March 20, 2008  
Page 3

interest, as the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare, and legal rights of the public in general. Neither organization makes this request for the principal purpose of securing any personal or commercial benefit. Thus, a waiver or reduction of fees is in the public interest. In the event any fee is to be charged for copying the requested records, please advise us in advance if the expected cost of the copying is likely to exceed \$150.00.

If you do not understand this request, or any portion thereof, or if you feel you require clarification of this request, or any portion thereof, please contact us at (202) 646-5172.

Thank you for your attention to this matter.

Sincerely,

JUDICIAL WATCH, INC.



Paul J. Orfanedes

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
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USAGE T	00'59	
PGS. SENT	4	
RESULT	OK	

# Judicial Watch, Inc.

501 School Street, S.W.  
Suite 500  
Washington, D.C. 20024

Telephone 202-646-5172  
Facsimile 202-646-5199

## FACSIMILE TRANSMISSION

TO: Governor Rod R. Blagojevich

FIRM: OFFICE OF THE GOVERNOR

FROM: Paul J. Orfanedes

DATE: March 20, 2008

TELECOPY NUMBER: (217) 524-4049

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**Governor Rod Blagojevich**  
**Office of the Governor**  
 207 State House  
 Springfield, IL 62706

PS Form 3800, June 2002 See Reverse for Instructions

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<p>1. Article Addressed to:</p> <p><b>Governor Rod Blagojevich</b>  <b>Office of the Governor</b>  <b>207 State House</b>  <b>Springfield, IL 62706</b></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p> <p>7005 1160 0000 8541 8778</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>



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**EXHIBIT B**

# Judicial Watch, Inc.

501 School Street, S.W.  
Suite 500  
Washington, D.C. 20024

Telephone 202-646-5172  
Facsimile 202-646-5199

## FACSIMILE TRANSMISSION

TO: Governor Rod R. Blagojevich

FIRM: OFFICE OF THE GOVERNOR

FROM: Paul J. Orfanedes

DATE: April 30, 2008

TELECOPY NUMBER: (217) 524-4049

NUMBER OF PAGES (Including Cover Page): 5

Our Reference No.: 500

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# Judicial Watch

*Because no one is above the law!*

**VIA FACSIMILE (217-524-4049) AND  
CERTIFIED U.S. MAIL**

April 30, 2008

Governor Rod Blagojevich  
OFFICE OF THE GOVERNOR  
207 State House  
Springfield, IL 62706

**Re: Illinois Freedom of Information Act Appeal**

Dear Governor Blagojevich:

On March 20, 2008, Judicial Watch, Inc. and the Americans For Prosperity Foundation served the enclosed request for public records on the Office of the Governor pursuant to the provisions of the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* ("FOIA").

To date, we have received no response to our FOIA request. Pursuant to 5 ILCS 140/3(c), the failure to respond to a FOIA request within seven (7) working days shall be considered a denial of the request. Because you are the head of the Office of the Governor, Judicial Watch, Inc. and the Americans For Prosperity Foundation hereby appeal the denial of their request to you. 5 ILCS 140/10(a). Please notify us within seven (7) working days whether we will be allowed access to the requested records. *Id.*

Thank you for your attention to this matter.

Sincerely,

JUDICIAL WATCH, INC.

  
Paul J. Orfanedes

Enclosure





**Judicial  
Watch**<sup>®</sup>  
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**VIA FACSIMILE (217-524-4049)**  
**AND CERTIFIED U.S. MAIL**

March 20, 2008

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Office of the Governor  
207 State House  
Springfield, IL 62706

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Gov. Rod R. Blagojevich

March 20, 2008

Page 3

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If you do not understand this request, or any portion thereof, or if you feel you require clarification of this request, or any portion thereof, please contact us at (202) 646-5172.

Thank you for your attention to this matter.

Sincerely,

JUDICIAL WATCH, INC.



Paul J. Orfanedes

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\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

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CONNECTION ID		
ST. TIME	04/30	10:59
USAGE T	01'08	
PGS. SENT	5	
RESULT	OK	

# Judicial Watch, Inc.

501 School Street, S.W.  
Suite 500  
Washington, D.C. 20024

Telephone 202-646-5172  
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**Office of the Governor**  
**207 State House**  
**Springfield, IL 62706**

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