

---

**From:** agweb@ks.gov  
**Sent:** Monday, January 30, 2023 1:32 PM  
**To:** firm@knlawgroup.com  
**Subject:** Copy of KOMA/KORA Complaint Form from Ryan A. Kriegshauser

Your KOMA-KORA Complaint Form has been submitted to the Kansas Attorney General's office!

Thank you for filing with our office. A copy of your complaint is included below for your records.

### **General Information**

- \* Your Name: Ryan A. Kriegshauser
- \* Street Address: 15050 W. 138th St., Unit 4493
- \* City: Olathe
- \* State: Kansas
- \* Zip Code: 66063

Phone Number: 913-303-0639

Alternate Phone Number:

Email Address: firm@knlawgroup.com

### **Background Information**

- \* Have you complained about this matter to any other office? No
- Have you filed a private lawsuit related to this matter? No

### **Violation Details**

- \* Type of violation: Kansas Open Records Act (KORA)
- \* Name of public agency/entity/official you are requesting we investigate: Republic County
- \* Public Agency/Entity/Official Address: 1815 M Street Belleville, KS 66935
- Public Agency/Entity/Official Phone Number: 785-527-7231
- \* Date of alleged violation: 11/18/2022

\* Location of alleged violation: Republic County, Kansas

\* Please describe the alleged violation in chronological order and identify any supporting documents: Our law firm represents a group of concerned landowners in Republic County, Kansas. We are currently investigating whether Republic County Officials engaged in serial communications agreeing to a wind farm proposal the "High Banks Proposal" outside of open meetings and possible conflicts of interest related to the proposals and possible personal benefits granted to Republic County Officials. This investigation has been met with a lack of transparency and attempt to shield documents from disclosure in violation of the Kansas Open Records Act ("KORA"), K.S.A. 45-215 et seq. In the September 26, 2022 Republic County Commission Meeting, it was disclosed that NextEra Energy, Inc. ("NextEra") has been paying for Republic County's counsel (Trish Voth at Foulston) to negotiate on Republic County's behalf against NextEra (represented by Alan Claus Anderson at Polsinelli). Pursuant to KORA, our clients requested "[a]ll communications, in any form, including but not limited to email correspondence, text messages, any other electronic communications application, meeting notes, call notes, message logs, etc. between Trish Voth Blakenship (hereinafter, "Voth") on behalf of the County with High Banks, LLC, NextEra Energy, Inc. or any representative, agent, or subsidiary thereof, including, but not limited to Alan Claus Anderson." A copy of our letter making this request is attached as Exhibit A. Republic County responded asserting attorney-client privilege and the work-product doctrine. They also asserted that the records were not in their possession. A copy of the Republic County Response is attached as Exhibit B. On behalf of our clients, we responded by noting that attorney-client privilege and the work-product doctrine were inapplicable between adversarial opposing parties. A copy of this response is attached as Exhibit C. Republic County abandoned these grounds but continued to assert that the County did not have these records because they were in the possession of the Foulston Law Firm, which was an independent contractor. A copy of their final response is attached as Exhibit D. KORA defines "public agency" as "the state or any political or taxing subdivision of the state or any office, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state." See K.S.A. 45-217(k)(1). Clearly, Republic County is a "public agency." The contract between Voth and Republic County allows the County access to its file, a copy of the contract is attached as Exhibit E. Additionally, Republic County's legal file is County property to which the County is entitled. See Kansas Rules of Professional Conduct 1.16(d) see eg. State v. Chartier, 234 Kan. 830, 832 (1984). Accordingly, Voth's emails on behalf of Republic County to NextEra's counsel are records of a public agency and subject to KORA. Additionally, Voth was acting as the attorney for Republic County and constituted an agent of the county and an instrumentality of Republic County under KORA. Black's Law Dictionary defines "instrumentality" as "[a] thing used to achieve an end or purpose" or "[a] means or agency through which a function of another entity is accomplished, such as a branch of government." See Black's Law Dictionary (8th Edition) see also State v. Great Plains of Kiowa Cnty., Inc., 308 Kan. 950, 954 (2018) citing Purvis v. Williams, 276 Kan. 182, 189 (2003). Voth was acting on the County's behalf to negotiate with NextEra even though she was also being paid by NextEra. Accordingly, she was acting as an instrumentality of Republic County to negotiate these contracts and her emails are subject to KORA. K.S.A. 45-216 directs that KORA be construed liberally to promote the policy that public records should be open to inspection. Allowing Republic County to circumvent KORA by using a third party law firm is contrary to the purpose of KORA. Additionally, Justin Ferrell is the Republic County Attorney and County Counselor who responded to our KORA request. Accordingly, the Kansas Attorney General's Office should investigate this matter and not refer it to Republic County.

\* What remedy would you like to see to resolve this matter: Receive requested records

## **Supporting Documentation**

### **Signature & Verification**

I have read and understand this complaint form. I understand a copy of my complaint will be provided to the public agency/entity/official that is the subject of my complaint. I also understand my complaint may be open to the public under the Kansas Open Records Act.

By typing my name below, I declare under penalty of perjury that the information I have provided is true and correct. Executed on January 30, 2023.

Ryan A. Kriegshauser

---

Date Submitted: 1/30/2023 1:32:04 PM

---

*Please do not reply directly to the sender of this email. If you have questions or comments regarding this form, please email the Attorney General's office at [general@ag.ks.gov](mailto:general@ag.ks.gov).*