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**NORTHWEST WISCONSIN'S BEST**

## MOTORCYCLE SWAP MEET



**9:00 AM – 5:00 PM • SUNDAY, JAN. 29, 2006**  
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 LIMITED QUANTITY - SEND EARLY

All Booths \$35.00  
 Advance Only!

Set-up 7:00 a.m. - Sunday  
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 8' x 10' Spaces

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone \_\_\_\_\_

Type Items To Be Sold \_\_\_\_\_

USED PARTS REBATE!  
 75% Or More Used Parts  
 Receive \$15.00 Back  
 Day Of Show On Each Booth!

Total Enclosed: \$ \_\_\_\_\_

Check Or Money Order To:  
 GT Productions  
 P.O. Box 156  
 Forest Junction, WI 54123  
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Admits Two (2) Persons Per Booth

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 Email: blackandchrome@charter.net Website: Still gonna be a while yet!

### FOR WHAT IT'S WORTH

By: Chester Brost

In the late installment of FOR WHAT IT'S WORTH (Free Riders Press November 2005), I outlined the procedures for requesting documents from the Federal Government through the Freedom of Information Act (FOIA). In this installment, I would like to cover what to do should that request be denied.

If your request for information is denied, you should send a letter of appeal to the person or office specified in the agency's reply. If for some reason this information is not provided, file your appeal with the head of the agency. Include a copy of the rejection letter along with a copy of your original request, and make as strong a case as possible for your right of access. It is important to clarify the request if the denial indicates some confusion on the part of the agency as to what is being sought.

If you plan to pursue the matter in court in the event you appeal is denied, you might want to indicate this in your letter.

Most agency regulations require that appeals be made within 30 days after the individual has been notified that this request has been denied. Therefore, if you decide to file an appeal you should do so in this time frame.

The agency denies your appeal in whole or in part. It must inform you of your right to seek judicial review. If after 20 working days from the time of the agency's receipt of your appeal you have not received a reply, you may take your case to court.

If your appeal is rejected, you may take your case to federal district court. Such action, or course, may involve considerable time and expenses.

You can file suit in the U.S. District Court where you live or do business or where the agency records are kept. Or you can take the case to the U.S. District Court in the District of Columbia. Most FOIA litigation does, in fact, occur in that court.

If you have a strong case, there is a good possibility that your decision to seek judicial review will itself produce results. Unless the agency withholding the information has a well-founded reason for doing so, it may decide to release the material rather than go into litigation.

As a plaintiff under the FOIA, you go into court with the presumption that right is on your side: the burden of proof is on the Government to justify withholding infor

mation. Judges are authorized to examine the contents of contested documents to determine whether all or any part of them can be withheld. The law requires that "reasonable segregable portions" of the exempt records be released.

The courts are supposed to expedite FOIA cases and, whenever possible, consider them ahead of other matters. The Act also specifies that court costs and attorney fees be awarded if the plaintiff has "substantially prevailed." In other words, if it is clear that the information should have been released to you in the beginning,

the Government may be required to pay the court costs and your attorney's fees. In addition, if the judge finds that agency officials have acted "arbitrarily or capriciously" in withholding information, the Office of Personnel Management may initiate proceedings to determine whether disciplinary action is warranted.

Litigation under the FOIA has produced hundreds of U.S. district court and appeals court decisions.

Still to come in this series: The Privacy Act Request; the Privacy Act appeal. This is Just FOR WHAT IT'S WORTH.

Ride safe.

Chuck

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