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Cook County, IL

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12/4/2018 4:27 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2018CH15097

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

KIRK ALLEN,)
)
Plaintiff,)
)
v.)
)
MAINE TOWNSHIP, ILLINOIS)
DEPARTMENT OF EMPLOYMENT)
SECURITY)
)
Defendant.)

2018CH15097

COMPLAINT

NOW COMES Plaintiff, KIRK ALLEN, by his undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendants MAINE TOWNSHIP and ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY's refusal, in willful violation of the Illinois Freedom of Information Act, to respond to ALLEN's Freedom of Information Act requests for the General Assistance recipient roster of the persons who have registered for work. In support of his Complaint, ALLEN states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of

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information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/3.

4. Under FOIA Section 11(h), "except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way."

PARTIES

5. Plaintiff KIRK ALLEN is the FOIA requester in this case.

6. Defendant MAINE TOWNSHIP is a public body located in Cook County, Illinois.

7. Defendant ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY ("IDES") is a public body located in Cook County, Illinois.

SEPTEMBER 27, 2017 FOIA REQUEST

8. On September 27, 2017, ALLEN made 6 requests for records under FOIA from MAINE TOWNSHIP. Among them were "1. A copy of the minutes for the last 6 meetings held at 6:30 pm by a majority of quorum to review bills," "3. A copy of the statute authorizing the Township Supervisor to hire an attorney for any township purpose without the advice and consent of the board," and "6. A copy of the General Assistance recipient roster of the persons who have registered for work as outlined in Article VI of the public aid act." A true and correct copy of the request is attached as Exhibit A.

9. On October 3, 2017, MAINE TOWNSHIP took an extension of five days to respond to the request. A true and correct copy of the extension letter is attached as Exhibit B.

10. On October 12, 2017, MAINE TOWNSHIP responded properly to items 2, 4, and 5. However, in response to item 1, it stated that there are "no such records responsive to this request." In response to item 3, it produced copies of three statutes "referencing Township Supervisor and attorney." In response to item 6, it stated that "Maine Township is not the keeper of these records. These records are in custody of Illinois Department of Employment Security. Please contact them for further information." A true and correct copy of the response is attached as Exhibit C.

11. It is implausible that MAINE TOWNSHIP does not maintain minutes of meetings as OMA requires them to do so. 5 ILCS 120/206.

12. None of the three statutes provided in response to item 3 authorize the Township Supervisor to hire an attorney for any township purpose without the advice and consent of the board.

13. MAINE TOWNSHIP is statutorily required to maintain the records requested in item 6. Per 305 ILCS 5/6-1.7, "A local governmental unit which administers aid under this Article shall maintain a roster of persons who have registered for work in such local governmental unit, and shall assure that such roster is available for inspection of the governing authorities of all taxing districts or private not-for-profit organizations, or the duly authorized agents thereof, for the selection of possible workers."

OCTOBER 16, 2017 REQUEST

14. Per MAINE TOWNSHIP's response to item 6, on October 16, 2017, ALLEN made a FOIA request directed to IDES for the same records as requested in item 6. A true and

correct copy of the request is attached as Exhibit D.

15. IDES denied the request on October 18, 2017, stating that it has no records responsive to the request and that the Public Aid Code requires the township to maintain the roster in question. 305 ILCS 5/6-1.7. A true and correct copy of the email is attached as Exhibit E.

16. On October 27, 2017, ALLEN informed MAINE TOWNSHIP that IDES denied having the requested roster and that it stated that MAINE TOWNSHIP is required to maintain the roster. A true and correct copy of the email is attached as Exhibit F.

17. On November 1, 2017, MAINE TOWNSHIP stated that it stands by its previously issued denial. A true and correct copy of the correspondence is attached as Exhibit G.

COUNT I – SEPTEMBER 27, 2017 FAILURE TO PRODUCE RECORDS

18. The above paragraphs are incorporated by reference.

19. MAINE TOWNSHIP is a public body under FOIA.

20. The records sought in ALLEN’s FOIA request are non-exempt public records of MAINE TOWNSHIP.

21. MAINE TOWNSHIP violated FOIA by failing to properly respond to the FOIA requests by the required deadline.

COUNT II – SEPTEMBER 27, 2017 WILLFUL AND INTENTIONAL VIOLATION OF FOIA

22. The above paragraphs are incorporated by reference.

23. MAINE TOWNSHIP is a public body under FOIA.

24. The records sought in ALLEN’s FOIA request are non-exempt public records of MAINE TOWNSHIP.

25. MAINE TOWNSHIP willfully and intentionally, or otherwise in bad faith failed

to comply with FOIA.

COUNT III – OCTOBER 16, 2017 FAILURE TO PRODUCE RECORDS

26. The above paragraphs are incorporated by reference.
27. IDES is a public body under FOIA.
28. The records sought in ALLEN’s FOIA request are non-exempt public records of IDES.
29. IDES violated FOIA by failing to properly respond to the FOIA requests by the required deadline.

COUNT IV - OCTOBER 16, 2017 WILLFUL AND INTENTIONAL VIOLATION OF FOIA

30. The above paragraphs are incorporated by reference.
31. IDES is a public body under FOIA.
32. The records sought in ALLEN’s FOIA request are non-exempt public records of IDES.
33. IDES willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, ALLEN asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court’s docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that MAINE TOWNSHIP and IDES have violated FOIA;
- iii. order MAINE TOWNSHIP and IDES to produce the requested records;
- iv. enjoin MAINE TOWNSHIP and IDES from withholding non-exempt public

records under FOIA;

- v. order MAINE TOWNSHIP and IDES to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

Attorneys for Plaintiff
KIRK ALLEN

Matthew Topic
Joshua Burday
Merrick Wayne
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com
Atty. No. 41295

Kirk Allen

From: Kirk Allen
Sent: Wednesday, September 27, 2017 9:45 AM
To: 'wtytko@mainetown.com'
Subject: FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of the minutes for the last 6 meetings held at 6:30 pm by a majority of a quorum to review bills.
2. A copy of the agenda for the last 6 meetings held at 6:30 pm for the purpose of reviewing bills.
3. A copy of the statute authorizing the Township Supervisor to hire an attorney for any township purpose without the advice and consent of the board.
4. A copy of all reimbursements made to the township for charges placed on a public credit card for the last 12 months.
5. A copy of the video from the September 27th, 2017 regular meeting. Note that this video is not subject to board approval prior to release.
6. A copy of the General Assistance recipient roster of the persons who have registered for work as outlined in Article VI of the public aid act. This roster is to be available for inspection by private not-for-profit organizations, which we are, for the selection of possible workers.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), Section 2 (g) ("Recurrent requester"), and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes), Section 3.2 (Recurrent requesters), Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and

welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,
Kirk Allen
PO Box 593
Kansas, IL 61933

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Maine Township
1700 Ballard Road
Park Ridge, Illinois 60068

October 3, 2017

Via E-Mail to: Kirk@illinoisleaks.com

Mr. Kirk Allen
PO Box 593
Kansas, IL 61933

Re: FOIA Request

On September 27, 2017 you requested the Maine Township Government records.

Please be informed that the video link of the September 26, 2017 Board meeting has been posted on the Maine Township website:

https://www.youtube.com/watch?v=SN8_Tth3B2U&feature=youtu.be

Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days for a limited number of reasons. 5 ILCS 140/3(e). We are requesting the time to respond to your request by 5 business days for the following reasons:

- The requested records are stored in whole or in part at other locations than the office having charge of the requested records.
- The request requires the collection of a substantial number of specified records.
- The request is couched in categorical terms and requires an extensive search for the records responsive to it.
- The requested records have not been located in the course of routine search and additional efforts are being made to locate them.
- The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions.
- The request for records cannot be complied with by the public body within the time limits prescribed by paragraph © of this Section without unduly burdening or interfering with the operations of the public body.
- There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more

Exhibit B

components of a public body having a substantial interest in the determination or in the subject matter of the request.

Pursuant to law we are extending our response time for the above checked reasons to October 12, 2017.

If you have any questions or concerns please feel free to contact FOIA officer Wiesia Tytko at 847-297-2510, ext. 222.

Respectfully submitted,

Wiesia Tytko
Maine Township FOIA Officer



Maine Township
1700 Ballard Road
Park Ridge, Illinois 60068

October 12, 2017

Via E-Mail to: Kirk@illinoisleaks.com

Mr. Kirk Allen
PO Box 593
Kansas, IL 61933

Re: FOIA Request

Dear Mr. Allen:

Maine Township's response to the Freedom of Information Act ("FOIA") Request you served upon it is as follows:

1. There are no such records responsive to this request;
2. Scanned copies of the agendas for the last 6 Board meetings enclosed;
3. Scanned copies of three statutes referencing Township Supervisor and attorney enclosed;
4. Due to the large volume of records responsive to this request, some documents are enclosed and the remainder will be sent to you by USPS at close of business 10/13/2017;
5. This question was already answered on October 3rd, please see the link: https://www.youtube.com/watch?v=SN8_Tth3B2U&feature=youtu.be; and
6. Maine Township is not the keeper of these records. These records are in custody of Illinois Department of Employment Security. Please contact them for further information.

If you have any questions or concerns please feel free to contact FOIA officer Wiesia Tytko at 847-297-2510, ext. 222.

Respectfully submitted,

Wiesia Tytko
Maine Township FOIA Officer

Exhibit C

Kirk Allen

From: Kirk Allen
Sent: Monday, October 16, 2017 2:37 PM
To: 'gregory.ramel@illinois.gov'
Cc: 'wtytko@mainetown.com'
Subject: FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of the General Assistance recipient roster from Maine Township of the persons who have registered for work as outlined in Article VI of the public aid act. This roster is to be available for inspection by private not-for-profit organizations, which we are, for the selection of possible workers. A request to Maine Township resulted in them claiming they do not possess that information and that it is in your agencies possession.

I qualify as both media and non-profit under the definitions in Section 2 (c-10) ("Commercial purpose"), Section 2 (f) ("News media"), Section 2 (g) ("Recurrent requester"), and Section 2 (h) ("Voluminous request") of the Freedom of Information Act, for the purposes of being exempt to the provisions of Section 3.1 (Requests for commercial purposes), Section 3.2 (Recurrent requesters), Section 3.6 (Voluminous requests), and Section 6 (Authority to charge fees).

I request expedited processing on the basis of an urgency to inform the citizens and taxpayers of Illinois about their government's activities. If any element of this request is denied in whole or in part, I ask that you justify all withholdings individually by reference to specific exemptions of the Act. Please provide all responsive information to me electronically.

I request a rolling production of records, such that the public body furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the below address. If you have any questions please do not hesitate to contact me. Rolling production is not to be perceived as an agreement to extend the time frame for compliance under FOIA.

If you are not the FOIA officer responsible for any part of this request you are required by law to forward it to the appropriate FOIA officer.

The purpose of the request is to access and disseminate information regarding the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

As outlined in FOIA, documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.

I am requesting the records be provided in electronic format if that is the method in which they are stored. If they are in paper form and the copier can convert them to electronic format I would appreciate receiving them electronically.

Thanks,
Kirk Allen
PO Box 593
Kansas, IL 61933

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Kirk Allen

From: Ramel, Gregory J. <Gregory.Ramel@Illinois.gov>
Sent: Wednesday, October 18, 2017 11:07 AM
To: Kirk Allen
Subject: RE: [External] FOIA Request

In response to your Freedom of Information Act (FOIA) request shown below, we have no records that are responsive to your request. The Public Aid Code requires the township to maintain the roster in question. There is no such requirement for this Department to maintain such a roster.

An individual requesting information under the Freedom of Information Act may ask the Public Access Counselor (PAC) at the Office of the Illinois Attorney General to review any denial of the request. 5 ILCS 140/9.5(a). The request can be submitted in writing to:

Public Access Counselor
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: [publicaccess\[atg.state.il.us\]](mailto:publicaccess[atg.state.il.us)

A party whose Freedom of Information Act request has been denied may also seek judicial review of the denial in circuit court [5 ILCS 140/11].

Gregory J. Ramel
First Deputy Legal Counsel
Illinois Department of Employment Security
33 S. State St., Ste. 937
Chicago, IL 60603
(p) 312-793-2333
(f) 312-793-5645

From: Kirk Allen [mailto:Kirk@illinoisleaks.com]
Sent: Monday, October 16, 2017 2:37 PM
To: Ramel, Gregory J. <Gregory.Ramel@Illinois.gov>
Cc: wtytko@mainetown.com
Subject: [External] FOIA Request

In accordance with the Freedom of Information Act of Illinois, I am requesting the following public records.

1. A copy of the General Assistance recipient roster from Maine Township of the persons who have registered for work as outlined in Article VI of the public aid act. This roster is to be available for inspection by private not-for-profit organizations, which we are, for the selection of possible workers. A request to Maine Township resulted in them claiming they do not possess that information and that it is in your agencies possession.

Kirk Allen

From: Kirk Allen
Sent: Friday, October 27, 2017 9:45 AM
To: wtytko@mainetown.com
Subject: GA Roster

The State has confirmed they do not have any Roster regarding the General Assistance recipients and that it is, in fact, to be maintained by the Township.

Is the Township going to provide the Roster as requested or not?

Please, advise so we know our course of action.

Thanks
Kirk Allen



Maine Township
1700 Ballard Road
Park Ridge, Illinois 60068

November 1, 2017

Via E-Mail to: Kirk@illinoisleaks.com

Mr. Kirk Allen
PO Box 593
Kansas, IL 61933

Re: FOIA Request

Dear Mr. Allen:

In response to your email dated October 27, 2017 regarding GA Roster, please be informed that Maine Township has previously issued a notice of denial and stands by that notice of denial.

If you have any questions or concerns please feel free to contact FOIA officer Wiesia Tytko at 847-297-2510, ext. 222.

Respectfully submitted,

Wiesia Tytko
Maine Township FOIA Officer

Exhibit G