



VILLAGE OF LISLE Village Board Agenda Item

Item Title: A Resolution Approving a Litigation Settlement Agreement between Christopher Bielat and the Village of Lisle

Date: March 7, 2022

Submitting Department: Village Manager's Office

Contact Person: Eric Ertmoed

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Description of Agenda Item:

Approval of this resolution will authorize the execution of a litigation settlement agreement and general release between Christopher Bielat and the Village of Lisle.

Background:

In July and September 2021, Mr. Christopher Bielat submitted Freedom of Information Act ('FOIA') requests to the Village of Lisle for records relating to the Lisle Economic Development Partnership ('LEDP'). The Village, in a full faith effort to comply with FOIA, on multiple occasions, requested copies of responsive records from the LEDP. The requests were denied. As a result, the Village was unable to fulfill the requests for records not within the Village's possession.

Subsequent to submitting these FOIA requests, on October 8, 2021, Mr. Bielat filed a complaint in the 18th Judicial Circuit Court of DuPage County for injunction and declaratory relief under the provisions of State's FOIA. The Village has later received the LEDP records and provided them to Mr. Bielat in order to fulfill his records request(s).

As the litigation is still outstanding, representatives for the parties have prepared a settlement agreement and general release ('Agreement') for Village Board consideration (see Exhibit 1).

The proposed Agreement includes the following terms:

- Ongoing compliance related to FOIA and OMA for the Village, its subsidiary or other affiliated public bodies
- Payment of Mr. Bielat's attorney fees and costs in the amount of \$23,000 within 7 days of the Agreement effective date
- Acknowledgment and agreement that the Village has met its obligation to respond to FOIA requests submitted in July and September 2021
- Village to audit LEDP financials as part of the annual audit process
- Dismissal of the lawsuit within 7 days of the Agreement's effective date

Action/Recommendation:

Staff recommends approval of the proposed resolution approving a litigation settlement agreement between Christopher Bielat and the Village of Lisle.

Budget Information:

Upon approval of the resolution and execution of the settlement agreement, the Village will pay a portion Mr. Bielat's legal fees and costs in the amount of \$23,000 to Miller Shakman Levine & Feldman.

Attachments:

[A RESOLUTION APPROVING A LITIGATION SETTLEMENT AGREEMENT BETWEEN CHRISTOPHER BIELAT AND THE VILLAGE OF LISLE](#)



RESOLUTION 2022-4237

A RESOLUTION APPROVING A LITIGATION SETTLEMENT AGREEMENT BETWEEN CHRISTOPHER BIELAT AND THE VILLAGE OF LISLE

WHEREAS, the Village of Lisle ('Village') is a non-home rule unit of local government pursuant to Article VII, Section 7 of the Illinois Constitution of 1970; and

WHEREAS, Christopher Bielat ('Bielat') has filed a complaint under the Illinois Freedom of Information Act ('FOIA') for injunctive and declaratory relief against the Village in the Circuit Court of the 18th Judicial District State of Illinois, County of DuPage Chancery Division for alleged failures to disclose public records titled *Christopher Bielat v. Village of Lisle (Case No. 2021-CH-000404)*; and

WHEREAS, representatives of the Village and Bielat have reached terms for a settlement in order to resolve the pending litigation; and

WHEREAS, a copy of the Settlement Agreement and General Release ('the Agreement') is attached to this Resolution as Exhibit 1; and

WHEREAS, the Mayor and the Board of Trustees of the Village finds that it is in the public's best interest that the Agreement be approved.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Trustees of the Village of Lisle, DuPage County, Illinois as follows:

SECTION 1: That the forgoing recitals are incorporated herein as if fully set forth.

SECTION 2: That the Mayor and Board of Trustees of the Village of Lisle approve and authorize the execution of the Agreement, a copy of which is attached hereto a Exhibit 1.

SECTION 3: That the Board of Trustees authorize and direct the Mayor to execute and Village Clerk to attest the Agreement and all other documents necessary to implement the Agreement.

SECTION 4: That the invalidity of any section, part, provision, term, or phase of this Resolution shall not affect the validity of the remainder hereof.

FURTHER, be it resolved that this resolution shall be entered upon the journals of the Board of Trustees of the Village of Lisle.

PASSED AND APPROVED by the Village Board of the Village of Lisle on this 7th day of March 2022.

ATTEST:

Published by the Village Clerk, in pamphlet form, by authority of the corporate authorities of the Village of Lisle on the 7 of March, 2022.

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“Agreement”) is made between Christopher Bielat (“Bielat”) and the Village of Lisle (“Village”) as of March 7, 2022 (“Effective Date”).

WHEREAS, Bielat has filed a lawsuit against the Village entitled *Bielat v. Village of Lisle*, Case No. 2021 CH 00404 in the Circuit Court of the Eighteenth Judicial District of the State of Illinois, DuPage County (“the Lawsuit”);

WHEREAS, Bielat has alleged that the Village violated the Illinois Freedom of Information Act by failing to disclose certain public records relating to the Lisle Economic Development Corporation (“LEDP”), and has asserted claims for injunctive relief and reimbursement of his attorneys’ fees and costs;

WHEREAS, since the filing of the Lawsuit, the Village has disclosed to Bielat various public records and has agreed to continue to respond to Freedom of Information Act requests relating to and on behalf of LEDP;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises contained in this Agreement, which Bielat and the Village acknowledge are sufficient, the parties agree as follows:

1. Scope of Agreement. This Agreement covers all understandings between Bielat and the Village. When used herein the term “Village” also includes the Village’s Trustees, officers, employees, agents, attorneys, successors and assigns.

2. Ongoing Compliance. The Village shall make all reasonable efforts as required by law to obtain public records in the possession of a party with whom the Village has contracted to perform a governmental function on its behalf, and that directly relate to the governmental function and are not otherwise exempt, and shall produce them in accordance with the Illinois Freedom of Information Act, 5 ILCS 140/7(2) (“FOIA”). In addition, the Village and its subsidiary or other affiliated public bodies agree to comply with the requirements of FOIA and the Illinois Open Meetings Act, 5 ILCS 120/2 et seq.

The foregoing agreement shall be incorporated into the final order dismissing the Lawsuit as contemplated in paragraph 4 below, and the parties agree that the Court shall retain jurisdiction to enforce this Paragraph 2.

3. Payment of Bielat’s Attorneys’ Fees and Costs. The Village shall pay the sum of Twenty three thousand dollars (\$23,000.00) in reimbursement for Bielat’s attorneys’ fees and costs, pursuant to Section 11 of the Illinois Freedom of Information Act. The payment shall be made within seven (7) days of the Effective Date by wire transfer to Miller Shakman Levine & Feldman LLP.

4. Release. For and in consideration of the promises made by the Village in Paragraphs 2 of this Agreement, Bielat agrees as follows:

(a) Bielat acknowledges and agrees that the Village has met its obligations to respond to the Freedom of Information Act requests that Bielat submitted to the Village on July 22, 2021 (“the July FOIA Request”) and September 22, 2021 (“the September FOIA Request”).

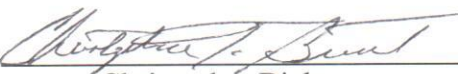
(b) Bielat covenants not to sue and unconditionally releases, discharges, waives, and holds harmless the Village from any and all claims relating to or arising out of July FOIA Request and the September FOIA Request.

(c) This waiver and general release does not apply to rights or claims that may arise after the date on which it is signed, nor to any rights or claims that cannot be waived by law. This waiver and general release does not preclude either party from enforcing the terms of this Agreement. This waiver and general release does not affect any pending FOIA requests by Bielat to the Village other than the July FOIA Request and the September FOIA Request, nor does it preclude Bielat from submitting additional requests to or claims against the Village under the Illinois Freedom of Information Act relating to public records other than those covered in the July FOIA Request or September FOIA Request.

5. Dismissal of Lawsuit. Within seven (7) days after receipt of the payment specified in Paragraph 3 above, Bielat’s counsel shall submit an Agreed Order dismissing the Lawsuit with prejudice, containing the language in Paragraph 2, with the Court maintaining jurisdiction to enforce the Agreed Order.

6. Audit. The Village shall cause an annual audit of LEDP for Fiscal Year 2021 to be completed on the Village’s standard schedule for completing Village annual audits, and shall provide a copy of the audit report to Bielat pursuant to FOIA upon its completion and presentation to the Village. _

7. Execution. This Agreement may be executed in counterparts, and both counterparts together shall constitute a fully executed agreement. This Agreement may be executed by electronic signature, PDF, or facsimile, which shall be deemed to be original and binding signatures. The signatories below represent and warrant that they are duly authorized to sign this Agreement on behalf of themselves or the party they represent.

SIGNATURE:  DATE: 2/23/22
Christopher Bielat

For The Village of Lisle:

Attest:

Village President

Village Clerk
DATE: _____, 2022.