

FILED DATE: 11/18/2022 4:53 PM 2022CH11350

## COMPLAINT

# INTRODUCTION

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 information relating to the decisions, policies, procedures, rules, standards and other aspects of governmental activity that affect the conduct of government and the lives of people. See 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. See 5 ILCS 140/3.

4. Under F.O.I.A. Section II (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 [REDACTED], the FOIA requester in this case is a citizen of the State of Illinois.

6. Defendant, VILLAGE OF DOLTON, is a public body located in Cook County, Illinois.

#### RELEVANT FACTS TO THE F.O.I.A. COMPLAINT

7. Section 3.5(a) of the Illinois Freedom of Information Act ("Act") mandates the following:

Upon receiving a request for a public record, the Freedom of Information officer shall:

- (1) Note the date the public body receives the written request;
- (2) Compute the day on which the period for response will expire;
- (3) Maintain an electronic or paper copy of a written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications. See 5ILCS 140/3.5(a).

8. Upon information and belief for each of Plaintiffs' FOIA requests, Defendant failed to comply with section 3.5(a) of the Act in that Defendant: 1) did not upon receiving Plaintiff's request for a public record, note the date the public body received the written request;

2) did not compute the day on which the period for a response will expire; 3) did not make a notation of the date the response was due on the FOIA request; and 4) did not create a file for the retention of the original request, a copy of the response, a record of the written communications with the requester.

9. The Act in 5 ILCS 140/3 (d) provides in pertinent part as follows:

Each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. Denial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. ... A public body that fails to respond to a request received may not treat the request as unduly burdensome under subsection (g).

See 5 ILCS 140/3 (d).

10. Plaintiff submitted five (5) FOIA requests via e-mail to Defendant on October 17, 2022 and five FOIA requests on October 18, 2022. See Group Exhibit A with each of the FOIA requests submitted to the Village of Dolton. The Village of Dolton acknowledged receipt of Plaintiff's FOIA requests.

11. Each FOIA request that is the subject of this Complaint was not complied with or denied within five (5) days from the date of each of the requests.

12. As of the date of the filing of this Complaint, Defendant, VILLAGE OF DOLTON, has not complied with any of Plaintiff's FOIA requests nor has the VILLAGE OF DOLTON provided a written denial.

13. Defendant failed to provide a written denial of Plaintiff's FOIA requests.

14. The failure of Defendant, VILLAGE OF DOLTON, to deny or provide the information to each FOIA request within five days was a violation of the Act and constituted a denial of the FOIA request under 5 ILCS 140/3 (d).

15. The Illinois Freedom of Information Act (5 ILCS 140/9) provides the following with respect to each denial:

Sec. 9. (a) Each public body denying a request for public records shall notify the requester in writing of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public body shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial shall inform such person of his right to judicial review under Section 11 of this Act.

16. For each denial associated with each request, the Public Body (Village of Dolton) failed to comply with section 9(a) of the Act because the Public Body (Village of Dolton) did not notify Plaintiff in writing of: A) the decision to deny the request; B) the reasons for the denial; C) the detailed factual basis for the application of any exemption claimed; D) the names and titles or positions of each person responsible for the denial; E) the Village of Dolton did not inform Plaintiff of a right to review by the Public Access Counselor; and F) the Village of Dolton did not inform Plaintiff of a right to Judicial Review.

17. Defendant's failure to notify Plaintiff of the denial in writing constitutes a violation of the Act for each of Plaintiff's requests set forth herein in this Complaint as exhibited in Group Exhibit A.

18. Defendant's failure to provide Plaintiff with reasons for the denial constitutes a separate violation for each FOIA request that was not answered in five (5) business days.

19. Defendant's failure includes a detailed factual basis for the application of any exemption claimed and constitutes a separate violation of the ACT for each FOIA request that is referenced herein in this Complaint.

20. Defendant's failure to identify the person responsible for the denial of the FOIA requests constitutes a separate violation of the ACT for each FOIA request that is referenced herein in this Complaint.

21. Defendant's failure to inform Plaintiff of the right to review by the Public Access Counselor constitutes a separate violation of the ACT for each FOIA request that is referenced herein in this Complaint.

22. Defendant's failure to inform Plaintiff of the right to judicial review constitutes a separate violation of the ACT for each FOIA request that is referenced herein in this Complaint.

23. Defendant failed to comply or deny in writing to the FOIA requests shown in Group Exhibit A, let alone within the five-day statutory deadline.

24. As of the date of filing, Defendant failed to comply with each of Plaintiff's FOIA requests.

25. Upon information and belief, Defendant's Mayor, TIFFANY HENYARD, adopted a policy to deny requests for information from the Public and TIFFANY HENYARD adopted that policy to willfully prevent disclosure of information to requestors seeking information from the VILLAGE OF DOLTON.

26. Defendant's Mayor, TIFFANY HENYARD, willfully withheld documents from the Village of Dolton's FOIA Officer, ALISON KEY.

27. Upon information and belief, Defendant's Mayor, TIFFANY HENYARD, as the chief officer of the Village of Dolton, had the power to hire and fire Defendant's employees.

Defendant's Mayor, TIFFANY HENYARD, made it clear to the Village's employees that responding to FOIA requests or providing information to the FOIA officer to respond to FOIA requests would result in their loss of employment or other adverse employment action.

28. Defendants violations of Plaintiffs FOIA requests are summarized as follows:

FOIA #	Request Date	Five Business days	Complaint Filing Date	3.5(a)(1)	3.5(a)(2)	3.5(a)(3)	3.5(a)(4)	3 (d) - 5 days	9(a)	
1	10/17/2022	10/24/2022	11/16/2022	1	1	1	1	1	6	
2	10/17/2022	10/24/2022	11/16/2022	1	1	1	1	1	6	
3	10/17/2022	10/24/2022	11/16/2022	1	1	1	1	1	6	
4	10/17/2022	10/24/2022	11/16/2022	1	1	1	1	1	6	
5	10/17/2022	10/24/2022	11/16/2022	1	1	1	1	1	6	
6	10/18/2022	10/25/2022	11/16/2022	1	1	1	1	1	6	
7	10/18/2022	10/25/2022	11/16/2022	1	1	1	1	1	6	
8	10/18/2022	10/25/2022	11/16/2022	1	1	1	1	1	6	
9	10/18/2022	10/25/2022	11/16/2022	1	1	1	1	1	6	
10	10/18/2022	10/25/2022	11/16/2022	1	1	1	1	1	6	
			Total	10	10	10	10	10	60	<u>110</u>

WHEREFORE, Plaintiff, [REDACTED], prays that this Honorable Court grant the following relief in his favor and against Defendant, Village of Dolton:

- A) In accordance with FOIA Section 11(1), afford this case precedence on the court's docket except as to causes the court considers to be of greater importance, and assign this case for hearing and trial at the earliest practicable date and expedite this case in every way;
- B) Declare that Defendant, VILLAGE OF DOLTON, violated FOIA for each of the violations associated with Plaintiff's requests;
- C) Order Defendant, VILLAGE OF DOLTON, to produce the requested records requested in Plaintiff's FOIA requests;

- D) Enjoin Defendant, VILLAGE OF DOLTON, from withholding non-exempt public records under FOIA associated with any other requests by Plaintiff, [REDACTED];
- E) Order Defendant, VILLAGE OF DOLTON, to pay civil penalties as provided under FOIA subsection 11(j), including a minimum of \$2,500 for each and every FOIA violation set forth herein to be paid to Plaintiff, JOSEPH MICELI, based on Defendant's willful withholding of records or other bad faith in failing to respond to the respective FOIA requests;
- F) Award Plaintiff, [REDACTED], his reasonable attorneys' fees and costs and tax same against Defendant, VILLAGE OF DOLTON; and
- G) Award [REDACTED] [REDACTED] such other and further relief as this Court considers just and equitable.

DATED: November 18, 2022

RESPECTFULLY SUBMITTED,

[REDACTED] Plaintiff

By: /s/ Robert T. Hanlon  
Robert T. Hanlon, Attorney for Plaintiff

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# GROUP EXHIBIT A

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**From:** [REDACTED]  
**Sent:** Monday, October 17, 2022 4:25 PM  
**To:** KFREEMAN@vodolton.org  
**Subject:** FOIA REQUEST 10/17/22 #1

Pursuant to the Illinois Freedom Information Act I am requesting any expense report submitted to the Village of Dolton by Keith Freeman. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, October 17, 2022 4:28 PM  
**To:** KFREEMAN@vodolton.org  
**Subject:** FOIA Request for Village of Dolton 10/17/22 #2

Pursuant to the Illinois Freedom Information Act I am requesting any expense report submitted to the Village of Dolton by Tiffany Henyard. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

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**From:** [REDACTED]  
**Sent:** Monday, October 17, 2022 4:32 PM  
**To:** KFREEMAN@vodolton.org  
**Subject:** FOIA Request for Village of Dolton Expense Report 10/17/22 #3

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton 2022 Cancer Walk. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, October 17, 2022 4:41 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request for Village of Dolton 10/17/22 #4

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton food and drink expenses. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

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**From:** [REDACTED]  
**Sent:** Monday, October 17, 2022 4:43 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request for Village of Dolton 10/17/22 #5

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton purchase and distribution of book bags or backpacks. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

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**From:** [REDACTED]  
**Sent:** Tuesday, October 18, 2022 1:58 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request for Village of Dolton 10/18/22 #6

Pursuant to the Illinois Freedom Information Act I am requesting the last 18 months expenditure with Just -Ice courts all expenses associated within. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Tuesday, October 18, 2022 2:22 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request Village of Dolton 10/18/22 #7

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton and the Dolton Police Gun buyback program. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]



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**From:** [REDACTED]  
**Sent:** Tuesday, October 18, 2022 2:30 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request for Village of Dolton 10/18/22 #8

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton Just Ice Rink. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Tuesday, October 18, 2022 2:55 PM  
**To:** akey@vodafone.org  
**Subject:** FOIA Request Village of Dolton 10/18/22 #9

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton receipts for firearm destruction or sales. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Tuesday, October 18, 2022 2:35 PM  
**To:** akey@vodolton.org  
**Subject:** FOIA Request Village of Dolton 10/18/22 #10

Pursuant to the Illinois Freedom Information Act I am requesting all documents related to the Village of Dolton records related to Tiffany Henyard's operation clean-up. If you are not the FOIA officer I am requesting you tender a copy of this request to the FOIA officer for the Village of Dolton. I am requesting that your response be sent to me electronically at this email address.