

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

Edgar County Watchdogs, Inc.,
Plaintiff,

v.

Village of Dolton,
Defendant.

Case No.: **2024CH01012**

Judge:

Complaint

Plaintiff Edgar County Watchdogs, Inc. (“Plaintiff”), files his Complaint against Defendant Village of Dolton (“Dolton”) to force its compliance with Illinois’ Freedom of Information Act (“FOIA”), as codified at 5 ILCS § 140/1, *at seq.*, and produce the demanded records. Plaintiff alleges the following based on personal knowledge stemming from their acts and experiences, an investigation conducted by their attorneys, and upon information and belief. Accordingly, Plaintiff alleges as follows:

The Parties, Jurisdiction, and Venue

1. The Plaintiff, Edgar County Watchdogs, Inc. is an Illinois not-for-profit corporation licensed and registered to do business in Illinois.
2. The Defendant, Village of Dolton, is a public body, as defined by FOIA’s Section 2(a), located in Cook County, Illinois.
3. Jurisdiction is proper in this Court because Plaintiff is an Illinois corporation doing business in Illinois and Defendant is a Public Body under FOIA subject to the jurisdiction of the same.
4. Venue is proper based on 735 ILCS §§ 5/2-101, 103, which, *inter alia*, requires suit be brought in the county in which the transaction or some part of the transaction occurred or the cause

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of action arose; and 5 ILCS § 140/11, which provides, *inter alia*, that a lawsuit to enforce a demand for documents under FOIA may be brought in the county where the public body is located..

Illinois' Freedom of Information Act

5. Illinois' FOIA statute declares that it is "the public policy of the State of Illinois that all persons¹ 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 this Act." 5 ILCS § 140/1.

6. The Illinois Legislature continues to recognize that "such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest." Id., at § 140/1.

7. "Restraints on access to information, to the extent permitted by this Act, 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 government activity that affect the conduct of government and the lives of any or all of the people. ... This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act. Id., at § 140/1.

8. "All records in the custody or possession 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." Id., at § 140/1.2.

9. In furtherance of the Illinois' Legislatures above goals unless otherwise exempt, public bodies must comply with requests for public documents and information. Id., at §§ 140/1.2, 140/3.

1. "Person[s]' means any individual, corporation, partnership, firm, organization or association, acting individually or as a group." 5 ILCS § 140/2(b)

10. Once a request is received, “[e]ach public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request[.]” Id., at § 140/3(d). Such time to respond may be extended for an additional five (5) business days based on good causes. Id., at § 140/3(e).

11. “[A] [d]enial 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 [a requests] receipt shall be considered a denial of the request.” Id., at § 140/3(d).

12. Moreover, FOIA outlines a number of requirements for a public body and its FOIA Officer to adhere to once it receives a request for a public record. Such requirements include: (1) noting date the request was received; (2) computing the response deadline; (3) creating and maintaining an electronic or paper record of the request until the request is complied with or denied; and (4) creating a file for the retention of the request, response, and all communications concerning the same. 5 ILCS § 140/3.5(a).

13. FOIA also states that if a request is denied, the public body must, *inter alia*, “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.” Id., at § 140/9(a).

14. To enforce the public’s right to access public information, FOIA provides a private right of action whereby: “[a]ny person denied access to inspect or copy any public record by a public body may file suit for injunctive or declaratory relief.” Id., at § 140/11(a).

15. “If a person seeking the right to inspect or receive a copy of a public record prevails in a proceeding under this Section, the court shall award such person reasonable attorney’s fees and costs.” Id., at § 140/11(i).

16. Moreover, “[i]f the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith, the court shall also impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence.” Id., at § 140/11(j).

Plaintiff Specific Allegations

17. The massive public exposure given to the Defendant that has brought Illinois corruption into the national public spotlight needs to be addressed immediately to save further harm to the state’s reputation. Plaintiff’s efforts pursuant to FOIA are intended to help do just that.

18. The January 30, 2024 Request sought: “Copy of all records of payments made to Keith Freeman between January 1, 2023 and January 30, 2024” (“REQUEST” Exhibit A).

19. Under Section 3(d) of FOIA, Defendant was obligated to respond to Plaintiff’s REQUEST by or before February 6, 2024, but failed to either produce the demanded documents, seek an extension, or issue a written denial as required by FOIA’s Section 9(a).

20. Defendant never sent a response, extension, denial, or other communication regarding the REQUEST.

21. Later, after the response was due, Plaintiff’s Counsel reached out to Defendant who again ignored the communication. Exhibit B. More than a week later, Defendant refused to respond to Plaintiff’s Counsel.

22. Moreover, upon information and belief, Defendant has failed to satisfy its other obligations under FOIA, as articulated in Section 3.5(a), for the REQUEST.

23. Defendant’s history is informative. In previous requests, personnel have been directed not to respond. Exhibit C. The Attorney General’s Office has issued a binding opinion documenting Defendant’s parallel malfeasance to produce. Exhibit D.

24. Defendant's pattern of behavior to avoid its obligations under the law defeats the purpose of the laws guaranteeing freedom of information.

25. Plaintiff, absent any other avenues to discover the information, brings these two counts.

Count I
Failure to Produce Demanded Records

26. Plaintiff incorporates the above paragraphs by reference as if fully set forth herein.

27. Defendant Village of Dolton is a public body under Section 2(a) of FOIA.

28. The records requested by Plaintiff in REQUEST, are non-exempt public records and are subject to FOIA's inspection requirements.

29. FOIA requires Defendant to respond to a records request within five (5) days of receipt or request an additional five (5) days to respond.

30. Defendant failed to either respond to Plaintiff's REQUEST or request additional time to respond to the same within the statutorily prescribed time period, in violation of FOIA's Section 3(d).

31. Defendant violated FOIA when it failed to produce the requested records within the statutory time period or any time thereafter; and otherwise failed to respond to Plaintiff's REQUEST.

Count II
Willful and Intentional Violation of FOIA

32. Plaintiff incorporates the above paragraphs by reference as if fully set forth herein.

33. Defendant Village of Dolton is a public body under Section 2(a) of FOIA.

34. The records requested by Plaintiff's REQUEST are non-exempt public records and are subject to FOIA's inspection requirements.

35. Upon information and belief, Defendant failed to satisfy any of FOIA's attendant requirements, including: (1) computing the response deadline; (2) creating and maintaining an

electronic or paper record of the request until the request is complied with or denied; or (3) creating a file for the retention of the request, response, and all communications concerning the same, in violation of FOIA's Section 3.5(a).

36. Defendant Village of Dolton willfully, intentionally, and in bad faith failed to comply with four (4) separate requirements of FOIA.

Prayer for Relief

Wherefore, Plaintiff Edgar County Watchdogs, Inc., respectfully requests that the Court find:

a. According to 5 ILCS § 140/11(h), this case be afforded precedence on the Court's docket, except for cases which the Court considers to be of greater import, and assign this matter for hearings and trial at the earliest convenience and otherwise expedited these proceedings;

b. Find that Defendant Village of Dolton has repeatedly violated FOIA's Section 3(d) by failing to timely respond to Plaintiff's REQUEST;

c. Find that Defendant Village of Dolton has repeatedly violated FOIA's Section 3.5(a) by failing to:

- i. compute its response deadline;
- ii. create or maintain an electronic or paper record of the Request until the request is complied with or denied; and
- iii. create a file for the retention of the request, response, and all communications concerning the same;

d. Order Defendant Village of Dolton to produce all requested records, documents, and information;

e. Enjoin Defendant Village of Dolton from withholding non-exempt public records under FOIA;

f. Order Defendant Village of Dolton to pay civil penalties of not less than \$2,500 nor more than \$5,000 for each of the above violations of FOIA, pursuant to 5 ILCS § 140/1(j);

g. Award Plaintiff reasonable attorney's fees and costs, pursuant to 5 ILCS § 140/1(i);
and

h. Grant any and all further relief that this Court deems just and proper.

Dated: February 19, 2024

Respectfully Submitted:

By: /s/ Edward "Coach" Weinhaus

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