

**IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT  
SHELBY COUNTY, ILLINOIS**

CHRISTOPHER J. BOEHM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2024-CH-5
	)	
COUNTY OF SHELBY, SHELBY	)	Hon. Bryan M. Kibler
COUNTY BOARD and ROBERT	)	
ORMAN, in his capacity as Shelby	)	
County Board Chairman,	)	
	)	
Defendants.		

**PETITION FOR LEAVE TO INTERVENE**

Prospective Intervenor Edgar County Watchdogs, Inc. (“Intervenor”) hereby files this Petition for Leave to Intervene in order to request that this Court lift its prior order denying public access to a public record. In support of this Petition, Intervenor states as follows:

1. This case involves a suit brought by a concerned citizen regarding the sale of farmland owned by Shelby County (the “County Farm”). In particular, the plaintiff has raised concerns about the structure of the public bidding process for the County Farm.

2. Intervenor is a news organization that publishes “Illinois Leaks” and has provided the public with news coverage of this important judicial matter. *See, e.g.*, Illinois Leaks, “Shelby County – Farm Bid Opened and Distributed to Attorney’s – Circuit Court Knows Bidder Information”, Nov. 13, 2024 at <https://edgarcountywatchdogs.com/2024/11/shelby-county-farm-bid-opened-and-distributed-to-attorneys-circuit-clerk-knows-bidder-information/>; Illinois Leaks, “Shelby County – Farm Sale Bid To Be Opened By Judge – SA Shut Down On Appointment Of Counsel”, Oct. 30, 2024 at

<https://edgarcountywatchdogs.com/2024/10/shelby-county-farm-sale-bid-to-be-opened-by-judge-sa-shut-down-on-appointment-of-counsel/?highlight=farm>.

3. On November 13, 2024, the Court entered an order placing the sole bid under seal. The Court opened the bid in the presence of Brian McReynolds, the Shelby County Sheriff, and Chad Brachbill, the Shelbyville Police Chief. The Court also directed the clerk to send the sealed bid to the attorneys of record in this case but ordered the attorneys not to share information regarding the bidder.

3. Illinois law and 735 ILCS 5/2-408 provide that intervention is a means for a news organization to seek access to records. *See In re Marriage of Kelly*, 2020 IL App (1st) 200130, at ¶ 1 (noting that radio station and newspaper were allowed to intervene in high profile divorce case in order to challenge sealing of court documents); *People v. Pelo*, 384 Ill. App. 3d 776, 780 (4th Dist. 2008) (allowing intervention), *A. P. v. M E. E.*, 354 Ill. App. 3d 989, 991 (1st Dist. 2004) (reversing trial court’s denial of access to media intervenors in civil case). Those principles apply equally as well when a media organization is seeking to object to a court’s attempt to close off access to public records. Intervention is an appropriate method for allowing a media organization to exercise its rights.

4. Public records such as the bid should be available to requesters under FOIA. As the General Assembly states in section 1 of FOIA: “it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.” 5 ILCS 140/1. FOIA further provides that “[a]ny 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 140/1.2.

5. In the case of the bid for the County Farm, the bidding process is complete, several individuals have accessed the previously sealed bid, and the public should have access to the bid.

6. Intervenor therefore seeks leave to intervene in this matter for the purpose of asking the Court to reconsider its order foreclosing the public from access to a vital public record.

WHEREFORE, Intervenor respectfully requests that the Court grant this Petition for Leave to Intervene, grant Intervenor leave to intervene and to file Intervenor’s Motion to Lift Order Prohibiting Public Access to Bid for Public Land (attached hereto as Ex. A), grant Intervenor’s Motion and lift the order sealing the Bid, and grant such further relief as is just.

Dated: November 18, 2024

Respectfully submitted,

EDGAR COUNTY WATCHDOGS, INC.

By: /s/ Brendan J. Healey  
One of its attorneys

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**EXHIBIT A**

**IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT  
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CHRISTOPHER J. BOEHM,	)	
	)	
Plaintiff,	)	
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	)	No. 2024-CH-5
v.	)	
	)	Hon. Bryan M. Kibler
COUNTY OF SHELBY, SHELBY	)	
COUNTY BOARD and ROBERT	)	
ORMAN, in his capacity as Shelby	)	
County Board Chairman,	)	
	)	
Defendants.	)	

**INTERVENOR’S MOTION TO LIFT ORDER PROHIBITING  
PUBLIC ACCESS TO BID FOR PUBLIC LAND**

This case involves a valuable plot of farmland in Shelby County that has been the subject of public controversy. In September, Shelby County put out a notice that it was seeking bids for the sale of the county farm (“County Farm”). The County received one bid (the “Bid”). Although several individuals have access to the Bid, the Court entered an order prohibiting public access to the Bid information (the “Order”). The publicly available docket sheet provides no justification for the entry of the Order, and there is no reason to keep the Bid a secret. The bidding process is long since complete, and the public has a right to this public record. That right is particularly compelling when the Bid concerns such a valuable public asset—the County Farm has appraised at more than \$2 million. The Bid should be disclosed under the Illinois Freedom of Information Act (“FOIA”). In enacting FOIA, the Illinois legislature clearly laid out the State of Illinois’ strong interest in making public records available to the public, and it provides for disclosure of bid information when the final award is made. The process is long past the point at which it was intended to be complete, and there is only one bid. In addition, the Bid is no longer sealed.

Several public officials and attorneys have been given access to the Bid, so any protection is waived. It is time to make the Bid public. Intervenor respectfully requests that this Court re-visit its prior ruling and lift the Order, which will provide the public with the opportunity to view the public record that is at the heart of a public controversy.

## **I. Facts**

In May of 2024 the Shelby County Board adopted a resolution to sell the County Farm (the “Resolution”). (A copy of the Resolution is attached hereto as Ex. 1.) The County Farm comprises 235.5 acres over two parcels. The minimum bid is \$8,000 per acre for one parcel and \$6,500 per acre for the other parcel.

In September, Shelby County published instructions for the Bid. (A copy of the instructions is attached hereto as Ex. 2.) The instructions provided that bids were due by October 4, 2024. The bids were to be opened and the winning bid awarded at the Shelby County Board meeting on October 10, 2024. Closing was set for 30 days after October 10, i.e., by November 9, 2024.

On October 1, 2024, however, Christopher Boehm filed the instant action. Mr. Boehm is a Shelby County resident., and he alleges that the Resolution was unlawful and that the bid process is fundamentally flawed. Mr. Boehm seeks an injunction enjoining the sale of the County Farm. On October 8, 2024, the Court entered a temporary restraining order enjoining the sale of the County Farm and directing Shelby County officials not to open the single Bid that was received. The Bid therefore was not opened on October 10, and the sale of the County Farm has not closed.

On November 13, 2024, the Court opened the sealed Bid. The Court did so in the presence of Brian McReynolds, the Shelby County Sheriff, and Chad Brachbill, the Shelbyville

Police Chief. The Court also directed the Clerk to send the Bid to the attorneys of record in this case but ordered the attorneys not to share information regarding the bidder.

The County Farm case has garnered considerable public attention, and it has been covered not just by the Edgar County Watchdogs<sup>1</sup> but also by other local news outlets. *See, e.g.*, Journal Gazette & Times-Courier, “Shelby County judge grants order temporarily halting sale of county-owned farm,” Oct. 8, 2024 at [https://jg-tc.com/news/local/government-politics/shelby-county-judge-grants-order-temporarily-halting-sale-of-county-owned-farm/article\\_b44776d5-9af0-5d85-93c2-bf2b5ff8b2ad.html](https://jg-tc.com/news/local/government-politics/shelby-county-judge-grants-order-temporarily-halting-sale-of-county-owned-farm/article_b44776d5-9af0-5d85-93c2-bf2b5ff8b2ad.html); Effingham Daily News, “Shelby County judge grants order temporarily halting sale of county-owned farm,” Oct. 9, 2024 at [https://www.effinghamdailynews.com/news/local\\_news/shelby-county-judge-grants-order-temporarily-halting-sale-of-county-owned-farm/article\\_82378a92-8661-11ef-85ee-774c6db3c145.html](https://www.effinghamdailynews.com/news/local_news/shelby-county-judge-grants-order-temporarily-halting-sale-of-county-owned-farm/article_82378a92-8661-11ef-85ee-774c6db3c145.html); East Central Reporter, “Shelby County faces legal complexities over farm sale bid process” Nov. 16, 2024 at <https://eastcentralreporter.com/stories/665888901-shelby-county-faces-legal-complexities-over-farm-sale-bid-process>.

## **II. Argument**

### **A. Because the Bid Already has been Disclosed to a Limited Group of People, It Should be Disclosed to the Public**

The cat is partially out of the bag. The Court has viewed the bid. It appears other public officials have as well, and the Bid has been provided to the attorneys of record in this case. The Bid is the crux of the public controversy swirling around the County Farm. Now

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<sup>1</sup> *See, e.g.*, Illinois Leaks, “Shelby County – Farm Bid Opened and Distributed to Attorney’s – Circuit Court Knows Bidder Information”, Nov. 13, 2024 at <https://edgarcountywatchdogs.com/2024/11/shelby-county-farm-bid-opened-and-distributed-to-attorneys-circuit-clerk-knows-bidder-information/>; Illinois Leaks, “Shelby County – Farm Sale Bid To Be Opened By Judge – SA Shut Down On Appointment Of Counsel”, Oct. 30, 2024 at <https://edgarcountywatchdogs.com/2024/10/shelby-county-farm-sale-bid-to-be-opened-by-judge-sa-shut-down-on-appointment-of-counsel/?highlight=farm>.

that the seal has broken, the Bid should be available to the public as a whole.

**B. The Order Conflicts with the Spirit of FOIA.**

This intervention is not governed by FOIA, but the Illinois FOIA nonetheless provides a useful framework for analyzing the unsealing of the Bid. FOIA exempts bid information from disclosure, but only to a point. *See* 5 ILCS 140/7(1)(h) (exempting from disclosure “[p]roposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made”). That point has passed. Regardless of whether the County Farm is sold, the bidding process is complete. The County received one Bid, and the deadline for additional bids passed more than a month ago. This lawsuit is the only reason the Bid was not unsealed October 10. Disclosure of the Bid would be consistent with the spirit of FOIA.

Even if the Bid were deemed to fall within the FOIA exemption, the selective disclosure of the Bid would act as a waiver. The Illinois Supreme Court has noted that courts interpreting the federal Freedom of Information Act have determined that “[v]oluntary disclosure in one situation can preclude later claims that records are exempt from release to someone else.” *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 413 (1997). The *Lieber* Court “agree[d] with these principles and believe they should be applied here.” *Id.* at 413. There is no reason to keep the Bid under seal when it already has been disclosed to certain individuals.

**C. The Order Contravenes the Illinois FOIA’s Provision of a Broad Public Right of Access.**

The Illinois FOIA reflects the strong public policy in favor of disclosure. The purpose of



FOIA “is to open governmental records to the light of public scrutiny.” *Bowie v. Evanston Cmty. Consolidated Sch. Dist. No. 65*, 128 Ill. 2d 373, 378 (1989). Accordingly, under FOIA, “public records are presumed to be open and accessible.” *Lieber*, 176 Ill. 2d at 407. As the General Assembly states in section 1 of FOIA: “it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.” 5 ILCS 140/1. In order to further these goals, exemptions from disclosure are to be construed narrowly. *See Ill. Educ. Ass’n v. Ill. State Bd. of Educ.*, 204 Ill. 2d 456, 463 (2003) (stating that “this court has repeatedly held that the exceptions to disclosure set forth in the Act are to be read narrowly”). In erecting a roadblock to the full disclosure of a public record, the Order is not consistent with the public policy set forth under FOIA.

### **III. Conclusion**

For the reasons set forth herein, Intervenor respectfully requests that this Court lift the Order, which will ensure that the media and public can have access to an important public record.

Dated: November 18, 2024

Respectfully submitted,

EDGAR COUNTY WATCHDOGS, INC.

By: /s/ Brendan J. Healey  
One of its attorneys

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*Counsel for Intervenor Edgar County  
Watchdogs, Inc.*

# **EXHIBIT 1**

Shelby County Board  
Resolution No. 2024-34

WHEREAS, Shelby County owns a parcel of land identified by parcel number 1812-04-00-200-001 and parcel 1812-03-00-100-001 containing approximately 235.5 acres (hereinafter said parcels are referred to herein as the "County Farm").

WHEREAS, Shelby County has been unable to meet the public purpose requirements set forth in Article VIII, Section 1 of the Illinois State Constitution as it relates to the County Farm;

WHEREAS, the State of Illinois has repealed the county home laws and de-authorized the county homes remaining in Illinois;

WHEREAS, Shelby County discerns that the Investment Act found in 30 ILCS 235 restricts the county to only investments that put no taxpayer money at any risk;

WHEREAS, any farming of the County Farm requires undertaking risk accustomed to farming;

WHEREAS, Shelby County recognizes current issues concerning the paying of the property taxes on the County Farm that could be inconsistent with acceptable applications of taxation;

WHEREAS, Shelby County finds that Shelby County should not compete with its own constituents or participate in the private sector of the economy;

WHEREAS, Shelby County finds that, instead of the growing and harvesting of a crop, the rate of return from alternative low risk investments are superior to the returns it has received from operating the county farm;

WHEREAS, the resources and personnel of Shelby County could be better utilized than the management of the County Farm;

WHEREAS, the Investment Policy of the County of Shelby does not allow for an investment in farming or real estate;

WHEREAS, Shelby County has been unable to ascertain whether or not the County is liable for the paying of income taxes on the revenue generated by the County Farm, and

WHEREAS, Shelby County wishes to establish that property ownership should be in the purview of private citizens whenever possible.

NOW, THEREFORE, BE IT RESOLVED, the County of Shelby shall retain the services of a qualified surveyor to survey the County Farm property and the specific location of the cemetery located therein along with the identification of an ingress/egress easement to that cemetery;

BE IT FURTHER RESOLVED, the County of Shelby shall retain the services of an appraiser to render an opinion of value on the Shelby County Farm;

BE IT FURTHER RESOLVED by the Board of Shelby County that the County of Shelby shall sell the complete bundle of rights associated with the real property and the present possessory interest in fee simple of that property known as the Shelby County Farm as two separate parcels, parcel 1812-04-00-200-001 with a starting bid of \$8,000 per acre, and parcel 1812-03-00-100-001 with a starting bid of \$6,500 per acre, via sealed bid process, with the bids being opened at a duly called meeting of the full Board of Shelby County;

BE IT FURTHER RESOLVED, any bids entertained by the Board of Shelby County in regard to the sale of the County Farm shall not be subject to financing;

BE IT FURTHER RESOLVED, the County of Shelby shall order title work to facilitate the sale of the County Farm property;

BE IT FURTHER RESOLVED, the County of Shelby shall establish an easement for access to the cemetery according to the Plat Act;

BE IT FURTHER RESOLVED, the buyer of the County Farm shall be responsible for paying any Real Estate Tax which may be due or has become due in connection with the County Farm;

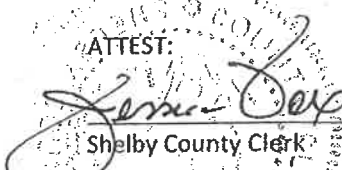
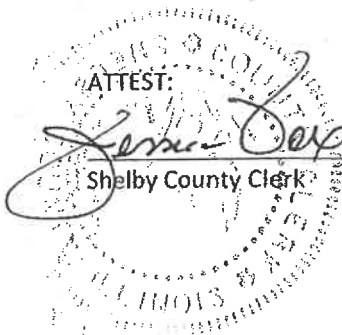
BE IT FURTHER RESOLVED, the County of Shelby shall authorize and command the board chairman of the Shelby County Board to sign all documents necessary or related to the sale of the County Farm;

BE IT FURTHER RESOLVED, Shelby County reserves the right to refuse any and all bids, including, but not limited to, those offered by foreign investors, concerning the sale of the County Farm;

BE IT FURTHER RESOLVED, that the proceeds from the sale of the property be tendered to the County Treasurer for safe keeping and investment in lawful investments for which the investment objective is to maximize return and prevent dissipation of the principal net sum from the sale.

APPROVED AND ADOPTED at a meeting of the Shelby County Board, Shelby County, State of Illinois on this 9th day of May, 2024.

  
Shelby County Board Chairman

ATTEST:  
  
Shelby County Clerk  


Yea 12

Nay 7

# **EXHIBIT 2**

## SHELBY COUNTY FARM SEALED BID SALE INSTRUCTIONS

- **Sealed** bids will be required to be in the Shelby County Treasurer's office by 4:00 p.m. on Friday, October 4, 2024.
- The envelope must be sealed, and "Shelby County Farm Sealed Bid" must be written in the lower front left corner of the envelope.
- Sealed bids will be opened, and the winning bid will be awarded subject to the requirements of the Shelby County Farm Sale Resolution during the October 10, 2024, Shelby County Board Meeting held in Courtroom A, Shelby County Courthouse, 301 E. Main, Shelbyville, IL.
- Bids must be submitted with the price per acre listed.
- Tracts will sell separately. Each bid must include the parcel number to clearly indicate the tract being bid on.
- \*\*\*Resolution clearly states that "the sale of the County Farm shall not be subject to financing."- this means that financing must be procured by the buyer. Shelby County will not finance the sale in any way.
- Closing will be within 30 days following the sale on Thursday, October 10, 2024.
- County of Shelby will retain ownership of the easement designated on the plat for (1812-04-00-200-001) in the amount of 1.70 +/-

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that a true and correct copy of the foregoing document has been served on November 18, 2024 via email to:

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