



E-Notice

2015-CH-02843

CALENDAR: 14

To: Matthew Vincent Topic
matt@loevy.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**BETTER GOVERNMENT ASSOC. vs. METRO. WATER RECLAM. DIST
2015-CH-02843**

The transmission was received on 02/19/2015 at 8:54 AM and was ACCEPTED with the Clerk of the Circuit Court of Cook County on 02/19/2015 at 9:26 AM.

CHANCERY_ACTION_COVER_SHEET (CHANCERY DIVISION)

COMPLAINT

Filer's Email: matt@loevy.com
Filer's Fax: (312) 243-5902
Notice Date: 2/19/2015 9:26:56 AM
Total Pages: 8

**DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
COOK COUNTY
RICHARD J. DALEY CENTER, ROOM 1001
CHICAGO, IL 60602**

(312) 603-5031
courtclerk@cookcountycourt.com

IN THE CIRCUIT CIVIL COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, COUNTY DIVISION

BETTER GOVERNMENT ASSOC.
v.
METRO. WATER RECLAM. DIST
Plaintiff
Defendant

No.

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2/19/2015 8:54 AM
2015-CH-02843
CALENDAR: 14
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

CHANCERY DIVISION CIVIL COVER SHEET
GENERAL CHANCERY SECTION

A Chancery Division Civil Cover Sheet - General Chancery Section shall be filed with the initial complaint in all actions filed in the General Chancery Section of Chancery Division. The information contained herein is for administrative purposes only. Please check the line in front of the appropriate category which best characterizes your action being filed.

- 0005 [] Administrative Review
0001 [] Class Action
0002 [] Declaratory Judgment
0004 [] Injunction

- 0007 [x] General Chancery
0010 [] Accounting
0011 [] Arbitration
0012 [] Certiorari
0013 [] Dissolution of Corporation
0014 [] Dissolution of Partnership
0015 [] Equitable Lien
0016 [] Interpleader
0017 [] Mandamus
0018 [] Ne Exeat

- 0019 [] Partition
0020 [] Quiet Title
0021 [] Quo Warranto
0022 [] Redemption Rights
0023 [] Reformation of a Contract
0024 [] Rescission of a Contract
0025 [] Specific Performance
0026 [] Trust Construction
0027 [] Foreign Transcript
0085 [] Petition to Register Foreign Judgment
[] Other (specify) _____

By: /s MATTHEW VINCENT TOPIC
Attorney Pro Se

Atty. No.: 41295
Name: Matthew Vincent Topic
Atty. for: BETTER GOVERNMENT ASSOC.
Address: 312 N May Street, Suite 100
City/State/Zip: Chicago, IL 60607
Telephone: (312) 243-5900

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

BETTER GOVERNMENT ASSOCIATION,)
)
Plaintiff,)
)
v.)
)
METROPOLITAN WATER)
RECLAMATION DISTRICT)
OF GREATER CHICAGO)
)
)
Defendant.)

COMPLAINT

NOW COMES Plaintiff, BETTER GOVERNMENT ASSOCIATION, by its undersigned attorneys, LOEVY & LOEVY, and brings this Freedom of Information Act suit to require Defendant METROPOLITAN WATER RECLAMATION DISTRICT to produce an audio recording of a MWRD officer reportedly using racial slurs and describing on an open police radio channel a secret “hang out” room in which MWRD officers watch television and drink on the job and otherwise engage in improper conduct at taxpayer expense. In support of its Complaint, BETTER GOVERNMENT ASSOCIATION alleges:

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.

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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 government activity that affect the conduct of government and the lives of the people. *Id.*

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 140/1.2.

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.”

5. Defendant MWRD has violated FOIA by refusing to produce the audio recording of a MWRD officer reportedly using racial slurs and describing on an open police radio channel a secret “hang out” room in which MWRD officers watch television and drink on the job and otherwise engage in improper conduct at taxpayer expense.

PARTIES

6. Plaintiff BETTER GOVERNMENT ASSOCIATION (“BGA”) is a nonpartisan, Illinois non-profit corporation, whose mission is to educate the public about waste, inefficiencies, and corruption in government by acting as a watchdog agency uncovering and exposing this type of activity; to promote respect for the law; and to support public officials in the rightful performance of their duties. BGA was founded in 1923 to protect the integrity of the political process in Chicago.

7. Defendant MWRD is a public body located in Cook County, Illinois.

BGA'S FOIA REQUEST AND MWRD'S DENIAL

8. On February 6, 2015, BGA requested from MWRD “any and all recordings and audio relating to the Metropolitan Water Reclamation District officer who was recorded and was the subject of last night's FOX 32 report. To be clear, I am told that on either Jan. 24 or Jan. 25, 2015, the Illinois State Police recorded a conversation on a police radio band shared with the Metropolitan Water Reclamation District of Greater Chicago. The conversation involved a MWRD officer at the Stickney Treatment Facility speaking for several minutes while his radio was unknowingly keyed. The conversation was overheard by ISP officials, who then brought it to the attention of MWRD officials because of the nature of the comments made by the officer. ISP has turned over a copy of that recording to the MWRD.” A true and correct copy of the request is attached as Exhibit A.

9. A true and correct copy of FOX 32's story about the incident is available at <http://www.myfoxchicago.com/story/28039159/secret-drinking-room>.

10. MWRD's executive director has stated that the officer used words that were “very inappropriate on many levels” and “very disturbing.”

11. On February 11, 2015, MWRD denied the request, claiming that the recording is exempt under FOIA Section 7(1)(n) as a record “relating to a public body's adjudication of employee grievances or disciplinary cases.” A true and correct copy of the denial is attached as Exhibit B.

12. The requested audio was not created in the course of any adjudication of any employee grievances or disciplinary cases.

13. The requested audio was created in the ordinary course of business.

14. The requested audio was created before MWRD learned of its existence.

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15. The requested audio would exist regardless of whether any employee grievance or disciplinary case was brought or the outcome of that process.

16. Drinking on the job by law enforcement officers at a water treatment plant would be a serious public safety problem and violate MWRD rules and regulations.

17. Use of racial slurs by law enforcement officers would call into question whether those officers are complying with the U.S. and State Constitution in performing their duties.

18. The requested audio recording includes statements about the use of property paid for using public funds.

19. The requested audio recording includes statements about activities public employees have been engaged in while being paid using public funds.

20. Under FOIA Section 1, the public has a duty to monitor government to ensure that it is being conducted in the public interest. That duty cannot be fulfilled here without access to the requested audio, and requiring the public simply to trust that MWRD will properly and transparently respond to this issue would make it impossible for the public to perform this statutory duty critical to the democratic process.

COUNT I – VIOLATION OF FOIA

- 21. The above paragraphs are incorporated by reference.
- 22. MWRD is a public body under FOIA.
- 23. The requested records exist and are not exempt under FOIA.
- 24. MWRD has willfully and intentionally violated FOIA by failing to produce the records requested by BGA.

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WHEREFORE, BGA 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 MWRD has violated FOIA;
- iii. order MWRD to produce the requested audio record under FOIA;
- iv. enjoin MWRD from withholding non-exempt public records under FOIA;
- v. award BGA reasonable attorneys' fees and costs;
- vi. order MWRD to pay civil penalties for willfully and intentionally violating FOIA in bad faith; and
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,



Attorneys for Plaintiff
BETTER GOVERNMENT ASSOCIATION

Matthew Topic
LOEVY & LOEVY
312 North May St., Suite 100
Chicago, IL 60607
312-243-5900
matt@loevy.com
Atty. No. 41295



Robert Herguth <rherguth@bettergov.org>

FOIA request

Robert Herguth <rherguth@bettergov.org>

Fri, Feb 6, 2015 at 11:52 AM

To: "foiarequest@mwrdd.org Request" <foiarequest@mwrdd.org>

Dear FOIA officer,

This is Bob Herguth with the Better Government Association with a request for records under the Illinois Freedom of Information Act.

Specifically under FOIA I am requesting a copy of any and all recordings and audio relating to the Metropolitan Water Reclamation District officer who was recorded and was the subject of last night's FOX 32 report.

To be clear, I am told that on either Jan. 24 or Jan. 25, 2015, the Illinois State Police recorded a conversation on a police radio band shared with the Metropolitan Water Reclamation District of Greater Chicago. The conversation involved a MWRD officer at the Stickney Treatment Facility speaking for several minutes while his radio was unknowingly keyed. The conversation was overheard by ISP officials, who then brought it to the attention of MWRD officials because of the nature of the comments made by the officer. ISP has turned over a copy of that recording to the MWRD.

I am asking for a copy of that same recording that was turned over to the MWRD for its investigation, and any other related recordings.

Please note this is for a possible news story.

As such I ask that you waive all fees. I ask that you convey this information electronically, to this email address: rherguth@bettergov.org.

I ask that you contact me with questions. My direct line is [312-821-9030](tel:312-821-9030).

I appreciate your consideration.

Sincerely,
Bob Herguth

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EXHIBIT A

Protecting Our Water Environment

BOARD OF COMMISSIONERS
Mariyana T. Spyropoulos
President
Barbara J McGowan
Vice President
Frank Avila
Chairman of Finance
Michael A. Alvarez
Timothy Bradford
Cynthia M. Santos
Debra Shore
Kari K. Steele
Patrick D. Thompson
David St. Pierre
Executive Director

Metropolitan Water Reclamation District of Greater Chicago

100 EAST ERIE STREET

CHICAGO, ILLINOIS 60611-3154

312-751-5600

Ronald M. Hill

General Counsel
ronald.hill@mwrdr.org
foiarequest@mwrdr.org

February 11, 2015

Mr. Bob Herguth
Better Government Association

Re: FOIA 15-031

Dear Mr. Herguth:

This letter is in response to your request for information under the Freedom of Information Act. The requested recording is considered exempt under Section 7(1)(n) of FOIA, which states:

The following shall be exempt from copying and disclosure: Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed."

You have the right to appeal this denial in writing to: Ms. Sarah Pratt, Public Access Counselor, Office of the Attorney General, 500 S. 2nd Street, Springfield, Illinois, 62706. You also have the right to seek judicial review.

Sincerely,

Annie Wright
Assistant Public Affairs Specialist

HSW:AKW

EXHIBIT B

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2120 - Served
2220 - Not Served
2320 - Served By Mail
2420 - Served By Publication

2121 - Served
2221 - Not Served
2321 - Served By Mail
2421 - Served By Publication

SUMMONS

ALIAS - SUMMONS

(2/18/11) CCG N001

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

BETTER GOVERNMENT ASSOC.

(Name all parties)

v.

METRO. WATER RECLAM. DIST

No. 2015-CH-02843

Defendant Address:

METRO. WATER RECLAM. DIST
R/A DAVID ST. PIERRE
METRO. WATER RECLAMATION DIST. OF GREATER
100 EAST ERIE STREET, CHICAGO IL 60611
CHICAGO, IL 60611

Summons

To each Defendant: SUMMONS

ALIAS - SUMMONS

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the Office of the Clerk of this Court at the following location:

Richard J. Daley Center, 50 W. Washington, Room 802, Chicago, Illinois 60602

District 2 - Skokie
5600 Old Orchard Rd.
Skokie, IL 60077

District 3 - Rolling Meadows
2121 Euclid
Rolling Meadows, IL 60008

District 4 - Maywood
1500 Maybrook Ave.
Maywood, IL 60153

District 5 - Bridgeview
10220 S. 76th Ave.
Bridgeview, IL 60455

District 6 - Markham
16501 S. Kedzie Pkwy.
Markham, IL 60426

Child Support
28 North Clark St., Room 200
Chicago, Illinois 60602

You must file within 30 days after service of this Summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than 30 days after its date.

Atty. No.: 41295
Name: MATTHEW VINCENT TOPIC
Atty. for: BETTER GOVERNMENT ASSOC.
Address: 312 N MAY STREET, SUITE 100
City/State/Zip: CHICAGO, IL 60607
Telephone: (312) 243-5900

WITNESS, Thursday, 19 February, 2015



Date of service: _____

(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at: _____
(Area Code) (Facsimile Telephone Number)