



E-Notice

2015-CH-01061

CALENDAR: 09

To: Matthew Vincent Topic
matt@loevy.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**BETTER GOVERNMENT ASSN. vs. VILLAGE OF ROSEMONT
2015-CH-01061**

The transmission was received on 01/22/2015 at 9:10 AM and was ACCEPTED with the Clerk of the Circuit Court of Cook County on 01/22/2015 at 9:13 AM.

CHANCERY_ACTION_COVER_SHEET (CHANCERY DIVISION)

COMPLAINT

Filer's Email: matt@loevy.com
Filer's Fax: (312) 243-5902
Notice Date: 1/22/2015 9:13:38 AM
Total Pages: 10

**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 ASSN.
v.
VILLAGE OF ROSEMONT
Plaintiff
Defendant

} No.

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2015-CH-01061
CALENDAR: 09
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 ASSN.
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.)
)
VILLAGE OF ROSEMONT,)
)
)
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 VILLAGE OF ROSEMONT to produce unredacted records showing the receipt of public funds in connection with ROSEMONT's monetization of various publicly owned assets, including the Allstate Arena. 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.
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 the Illinois Constitution, FOIA, and the Local Records Act, records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public without exception. Ill. Const. Article VII § 1(c); 5 ILCS 140/2.5; 50 ILCS 205/3a.

5. 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.”

6. Defendant ROSEMONT has violated FOIA and the Illinois Constitution by redacting from copies of contracts for the use of publicly owned properties such as Allstate Arena the amount of rent paid to ROSEMONT.

PARTIES

7. 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.

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8. Defendant ROSEMONT is a public body located in Cook County, Illinois.

BGA'S FOIA REQUEST AND ROSEMONT'S DENIAL

9. On November 13, 2014, BGA requested from ROSEMONT under FOIA, "All contracts for amusement events held or to be held at an entertainment venue in 2014, as those terms are used in Village of Rosemont ordinance No. 2014-11-12, passed on November 12, 2014." A true and correct copy of the request is attached as Exhibit A.

10. At ROSEMONT's request, BGA agreed to narrow the scope of its request to contracts related to the Allstate Arena and Donald E. Stephens Convention Center.

11. On January 7, 2015, ROSEMONT produced records in response to the request, but redacted the amount of rent paid and similar financial information. A true and correct copy of the response letter is attached as Exhibit B.

12. ROSEMONT contends that the redacted information is exempt as (a) trade secrets under FOIA Section 7(1)(g) and FOIA Section 7(1)(a); and (b) subject to Rosemont home rule ordinance 2014-11-12, in which ROSEMONT purports to create a FOIA exemption for itself for confidential financial information regarding publicly owned facilities in ROSEMONT.

13. Section 7(1)(g) is expressly limited to trade secret information "obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary," not information that a public body contends to be its own trade secret.

14. Home rule units are not permitted to regulate public access to public records in a manner inconsistent with the state FOIA statute or the Illinois Constitution, and the General Assembly has made clear that FOIA is the "exclusive" state statute on access to information except to the extent other laws create greater rights to information.

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15. The redacted information clearly pertains to the obligation and receipt of public funds, and is therefore also subject to disclosure, without exception, under FOIA and the Illinois Constitution.

COUNT I – VIOLATION OF FOIA

16. The above paragraphs are incorporated by reference.

17. ROSEMONT is a public body under FOIA.

18. The redacted information is not exempt under FOIA.

19. ROSEMONT has willfully and intentionally violated FOIA by failing to produce the unredacted records requested by BGA.

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 ROSEMONT has violated FOIA;
- iii. order ROSEMONT to produce the unredacted requested record under FOIA;
- iv. enjoin ROSEMONT from withholding non-exempt public records under FOIA;
- v. award BGA reasonable attorneys' fees and costs;
- vi. order ROSEMONT 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,

/s/ Matthew Topic

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

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Robert Herguth <rherguth@bettergov.org>

FOIA request 2

Robert Herguth <rherguth@bettergov.org>
Draft

Thu, Nov 13, 2014 at 4:01 PM

Dear FOIA officer,

This is Bob Herguth at the Better Government Association with a request for records under the Illinois Freedom of Information Act. Specifically under FOIA I am requesting copies of:

1) All contracts for amusement events held or to be held at an entertainment venue in 2014, as those terms are used in Village of Rosemont ordinance No. 2014-11-12, passed on Nov. 12, 2014.

Please note this is for a possible news story. As such I ask that this information be provided electronically, to this email address: rherguth@bettergov.org.

I ask that you please call me with questions. My direct line is (312) 821-9030.

I appreciate your consideration.

Sincerely,
Bob Herguth

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EXHIBIT A

ROSENTHAL, MURPHEY, COBLENTZ & DONAHUE

LAW OFFICES
30 NORTH LA SALLE STREET
SUITE 1624
CHICAGO, ILLINOIS 60602
(312) 541-1070
FAX (312) 541-9191

PETER D. COBLENTZ
JOHN F. DONAHUE
JUDITH N. KOLMAN
JOHN B. MURPHEY
PETER M. ROSENTHAL
(1950-2010)

MATTHEW D. ROSE
AMBER M. SAMUELSON

January 7, 2015

WRITER'S DIRECT LINE
(312) 541-1073

Mr. Matthew Topic
Loevy & Loevy
312 N. May St., Suite 100
Chicago 60607

Re: Your Freedom of Information Request to the Village of Rosemont

Dear Mr. Topic:

This firm serves as the attorneys for the Village of Rosemont. This letter is being written on behalf of the Village of Rosemont in response to the request made by your client, Mr. Herguth of the Better Government Association ("BGA"), under the Illinois Freedom of Information Act ("FOIA"). This request was received by the Village of Rosemont on November 13, 2014. Please note that this request was received at the same time as another FOIA request that Mr. Herguth submitted to the Village, and the Village's FOIA officer failed to recognize that this was a different FOIA request. You brought this oversight to my attention on December 10, 2014. Since that time we've had a series of communications to first narrow the scope of the BGA's FOIA request, and to then extend the time for the Village to respond to December 30, 2014, and then to January 7, 2015.

The BGA originally requested "all contracts for amusement events held or to be held at an entertainment venue in 2014, as those terms are used in Village of Rosemont Ordinance No. 2014-11-12, passed on November 12, 2014." In subsequent discussions with you it was agreed to reduce the scope of the request by limiting the entertainment venues covered by this FOIA request. It was agreed that the scope of the request would be reduced to cover contracts for amusement events held at the Allstate Arena and the Donald E. Stephens Convention Center ("Convention Center") during 2014.

We are providing with this response a CD containing pdf copies of the requested contracts for amusement events held at either the Allstate Arena or the Convention Center in 2014. Redacted from those records is confidential financial and proprietary information of the Village of Rosemont consisting of amounts paid as rent for use of the relevant entertainment venue for these events, and rebates or financial inducements, if any, paid by the Village of Rosemont for production and presentation of such amusement event at the Allstate Arena or the Convention Center as the case

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EXHIBIT B

Mr. Matthew Topic
Re: BGA FOIA Request to the Village of Rosemont
January 7, 2015
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may be. Private information consisting of personal signatures has also been redacted pursuant to Section 7(1)(b) of the FOIA.

Information regarding rent paid for use of the Rosemont entertainment venues, and any rebates or financial inducements paid by the Village of Rosemont to the producer or promoter of such an event, is exempt as trade secret financial information of the Village of Rosemont under Section 7(1)(a) and Section 7(1)(g) of the Illinois Freedom of Information Act, and also under Village of Rosemont Ordinance No. 2014-11-12 which, pursuant to the home rule power of the Village of Rosemont, prohibits the disclosure of this confidential and proprietary financial information of the Village. The legal and factual bases for these exemptions are discussed more fully below.

Exemption under Section 7(1)(a) and 7(1)(g) of the FOIA.

Information contained in these contracts regarding rent paid by the promoter or producer of the amusement event, or regarding rebates or financial incentives paid to the Village of Rosemont by the promoter or producer of such amusement event is exempt under Sections 7(1)(a) and 7(1)(g) of the Illinois Freedom of Information Act ("FOIA") as trade secret financial information of the Allstate Arena and of the Convention Center, the disclosure of which would cause competitive or financial harm to the Village of Rosemont and these venues. Such financial information qualifies as a trade secret under Illinois Trade Secret Act (765 ILCS 1065/2) because it is (1) financial data, (2) that is sufficiently secret to derive economic value from its disclosure or use, and (3) because the Village makes reasonable efforts to maintain the secrecy of the information.

Exemption under Rosemont Home Rule Ordinance 2014-11-12.

Pursuant to Ordinance No. 2014-11-12 the requested rent and rebate information is confidential financial or proprietary information of the Village of Rosemont which is exempt from disclosure. Village of Rosemont Ordinance No. 2014-11-12 was enacted pursuant to the Village's home rule authority under Article VII, Section 6(a) of the Illinois Constitution. The Illinois Constitution is, of course, the supreme law of the State of Illinois.

The operation of the Allstate Arena and the Convention Center, and the protection of those venues from the competitive harm that would result from disclosure of such confidential financial and proprietary information, unquestionably pertains to the government and affairs of the Village of Rosemont and is therefore within the constitutional home rule power of the Village under Article VII, Section 6(a) of the Illinois Constitution. Because the Illinois Freedom of Information Act does not expressly limit or deny the authority of home rule units pursuant to paragraphs (g), (h), (i), (j) or (k) of Article VII, Section 6, the Village has the power as a home rule unit to act concurrently with

ROSENTHAL, MURPHEY, COBLENTZ & DONAHUE
LAW OFFICES

Mr. Matthew Topic
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the State to limit and prevent the disclosure of confidential financial and proprietary information that would cause competitive harm to the Allstate Arena and the Donald E. Stephens Convention Center. This interpretation is confirmed by 5 ILCS 70/7 which states as follows:

No law enacted after January 12, 1977, denies or limits any power or function of a home rule unit, pursuant to paragraphs (g), (h), (i), (j), or (k) of section 6 of Article VII of the Illinois Constitution, unless there is specific language limiting or denying the power or function and the language specifically sets forth in what manner and to what extent it is a limitation on or denial of the power or function of a home rule unit.

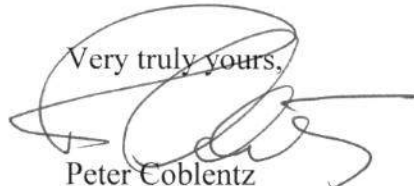
To the extent that the BGA FOIA request is being denied, the person responsible for the denial is Peter Coblentz who is one of the Village's attorneys.

To the extent that the BGA FOIA request is being denied, the BGA has the right to have the denial reviewed by the Public Access Counselor at the office of the Illinois Attorney General. The Public Access Counselor's address and telephone number are as follows:

Public Access Counselor
Office of the Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706
Phone: 312.814.5526
Fax: 217.782.1396
E-mail: publicaccess@atg.state.il.us

Any request for review by the Public Access Counselor must be filed no later than sixty (60) days after the date of the denial of the FOIA request. The BGA also has the right to seek judicial review of the denial of the FOIA request pursuant to Section 11 of the Freedom of Information Act.

Very truly yours,



Peter Coblentz

PDC:bb
cc: Debbie Drehobl

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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 ASSN.

(Name all parties)

v.

VILLAGE OF ROSEMONT

No. 2015-CH-01061

Defendant Address:

VILLAGE OF ROSEMONT
R/A VILLAGE CLERK
9501 W. DEVON AVE.
ROSEMONT, IL 60018

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.

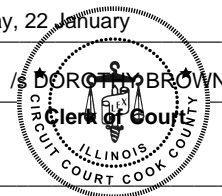
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

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 ASSN.
Address: 312 N MAY STREET, SUITE 100
City/State/Zip: CHICAGO, IL 60607
Telephone: (312) 243-5900

WITNESS, Thursday, 22 January, 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)