



E-Notice

2015-CH-02508

CALENDAR: 04

To: Matthew Vincent Topic
matt@loevy.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**BETTER GOVERNMENT ASSOC. vs. ILL. DEPT. OF TRANSPORTAT
2015-CH-02508**

The transmission was received on 02/13/2015 at 11:11 AM and was ACCEPTED with the Clerk of the Circuit Court of Cook County on 02/13/2015 at 12:36 PM.

CHANCERY_ACTION_COVER_SHEET (CHANCERY DIVISION)

COMPLAINT

Filer's Email: matt@loevy.com
Filer's Fax: (312) 243-5902
Notice Date: 2/13/2015 12:36:43 PM
Total Pages: 7

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.
ILL. DEPT. OF TRANSPORTAT
Plaintiff
Defendant

No. }

ELECTRONICALLY FILED
2/13/2015 11:11 AM
2015-CH-02508
CALENDAR: 04
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.)
)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION,)
)
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 ILLINOIS DEPARTMENT OF TRANSPORTATION to produce records referring to BGA, and thus, to uphold the important principles that the public is entitled to know what public officials, paid with tax dollars, are saying about the public and that FOIA exemptions do not make secret potential efforts to spin news stories or to thwart inquiries from the media or government watchdogs. 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 IDOT has violated FOIA by refusing to produce records mentioning or referring to BGA.

PARTIES

6. Plaintiff BETTER GOVERNMENT ASSOCIATION (“BGA”) is a nonpartisan, Illinois non-profit corporation based in Chicago, 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 IDOT is a public body located in Illinois.

BGA'S FOIA REQUEST AND IDOT'S DENIAL

8. On December 4, 2014, BGA requested from IDOT copies of emails of particular IDOT officials that mention or refer to BGA.

9. BGA made the request after growing frustrated at IDOT's lack of responsiveness to its media and FOIA inquiries and in an effort to learn whether IDOT was deliberately obstructing BGA's efforts.

10. On December 18, 2014, IDOT produced some records, but withheld others on the basis of "deliberative process" under FOIA Section 7(1)(f) and attorney-client privilege. A true and correct copy of the response letter, which quotes the request, is attached as Exhibit A.

11. Upon information and belief, the withheld records contain information about how IDOT responded or considered responding to BGA's media and FOIA inquiries.

12. Upon information and belief, the withheld records contain factual information.

13. Upon information and belief, the withheld records contain the names of the individuals sending and receiving such communications, dates, times, subject lines, and general subject matter information.

14. Upon information and belief, the withheld records contain information that is not a request for legal advice or the providing of legal advice.

COUNT I – VIOLATION OF FOIA

15. The above paragraphs are incorporated by reference.

16. IDOT is a public body under FOIA.

17. The requested records exist and are not exempt under FOIA.

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



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

December 18, 2014

VIA EMAIL

Mr. Brett Chase
bchase@bettergov.org

Re: FOIA Request No. CO-14-0460

Dear Mr. Chase:

This letter is in response to your second narrowed Illinois Freedom of Information Act ("FOIA") request of December 4, 2014 seeking:

Copies of documents to or from Illinois Department of Transportation officials (named below), including but not limited to emails and memos that mention or refer to the Better Government Association (BGA) beginning September 1, 2014, to present.

Specifically, under FOIA I'm requesting these emails and memos addressed to or generated from the following IDOT officials:

Erica Borggren
Marsha Campos
Jaime Martinez
Michael Forti
Paris Ervin
Barbara Brush
Guy Tridgell
Susan Shea
Ann Schneider

We conducted a search and found the attached .pdf document responsive to your request. Please be advised that our search identified additional documents that are responsive to your request but we are withholding these documents in their entirety pursuant to FOIA Sections 7(1)(f) which exempts from disclosure "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are express, or policies or actions are formulated" and 7(1)(m) which exempts "[c]ommunications between a public body and an attorney...that would not be subject to discovery in litigation."

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EXHIBIT A

The withheld documents constitute deliberative correspondence and confidential attorney-client communications.

To the extent you consider this response to be a denial of your FOIA request, you have the right to submit a request for review by the Public Access Counselor ("PAC") at the Office of the Illinois Attorney General to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us

If you choose to submit a request for review, you must do so within 60 days after the date of this response letter. The request for review must be in writing, signed by you, and include a copy of your FOIA request and this office's response. 5 ILCS 140/9.5(a). In addition, you have the right to seek judicial review of this response. 5 ILCS 140/11(a),(b).

If you have question or need additional information, please contact me.

Very truly yours,



Barbara Brush
Freedom of Information Officer
Illinois Department of Transportation
2300 South Dirksen Parkway
Room 300
Springfield, IL 62764

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.

ILL. DEPT. OF TRANSPORTAT

No. 2015-CH-02508

Defendant Address:

ILL. DEPT. OF TRANSPORTAT
201 WEST CENTER COURT
SCHAUMBURG. IL 60196

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.

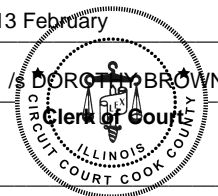
IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

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, Friday, 13 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)