

Return Date: No return date scheduled
Hearing Date: 6/28/2021 10:00 AM - 10:00 AM
Courtroom Number: 2302
Location: District 1 Court
Cook County, IL

FILED
2/26/2021 3:59 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH00954

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

THE SOUTHLAND JOURNAL,)
)
Plaintiff,)
)
v.)
)
VILLAGE OF ROBBINS,)
)
Defendant.)

12373979

2021CH00954

COMPLAINT

NOW COMES Plaintiff THE SOUTHLAND JOURNAL, by its attorneys LOEVY & LOEVY, and brings this suit to overturn Defendant VILLAGE OF ROBBINS' willful violation of the Illinois Freedom of Information Act. VILLAGE OF ROBBINS failed to comply with THE SOUTHLAND JOURNAL's FOIA request for various records pertaining to the Village's operations. THE SOUTHLAND JOURNAL has provided ROBBINS ample opportunities to respond to the November 25, 2020 FOIA request, but it has failed to comply with the request for over two months. In support of the Complaint, THE SOUTHLAND JOURNAL states as follows:

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. 5 ILCS 140/1.

3. Under FOIA Section 1.2, “[a]ll 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.” 5 ILCS 140/1.2.

PARTIES

4. Plaintiff THE SOUTHLAND JOURNAL is a local news website that primarily focuses on the Southland of Chicago and made the FOIA request in this case.

5. Defendant VILLAGE OF ROBBINS (“ROBBINS”) is a public body located in Cook County, Illinois.

NOVEMBER 25, 2020, FOIA REQUEST

6. On November 25, 2020, THE SOUTHLAND JOURNAL submitted a FOIA request to ROBBINS for the following records: 1) “[f]ull recording(s) of 11/24/2020 Virtual City Council Meeting”; 2) “[a]ll Warrant Lists of all financial transactions since Jan. 1, 2020”; 3) “[a]ll Treasurer Reports since Jan 1, 2020”; 4) “[a]pplications for [p]ermits for all Robbins, IL businesses since Jan. 1, 2020”; and 5) “[c]redit [c]ard statements of all credit cards since Jan 1, 2020.” Exhibit A.

7. On November 25, 2020, ROBBINS acknowledged receipt of the request. Exhibit B.

8. On December 10, 2020, ROBBINS sought “additional time to retrieve documents” that are responsive to the request. ROBBINS did not specify how much additional time it seeks. Exhibit C.

9. Section 3(f) FOIA states that the “public body shall, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming.” 5 ILCS 140/3(f).

10. ROBBINS’s deadline to seek an extension was December 4, 2020.

11. On December 16, 2020, THE SOUTHLAND JOURNAL asked ROBBINS to process the request as soon as possible without explicitly agreeing to any extensions. Exhibit D.

12. On December 18, 2020, THE SOUTHLAND JOURNAL asked ROBBINS whether it plans to respond to the request before the New Year. Exhibit E.

13. Having received no further response from ROBBINS, THE SOUTHLAND JOURNAL submitted a request for review to the Public Access Counselor (“PAC”) on January 8, 2021.

14. On January 11, 2021, PAC asked ROBBINS to respond to the requester and provide a copy of the response to the PAC. It also informed that a “proper response under section 3(d) of FOIA may resolve this matter.” Exhibit F.

15. On January 11, 2021, ROBBINS informed THE SOUTHLAND JOURNAL that it has “requested documents pertaining to” the FOIA request, but has “not received them yet.” Exhibit G.

16. On February 3, 2021, ROBBINS informed THE SOUTHLAND JOURNAL that it has forwarded the FOIA request to the attorney and is waiting on a response. Exhibit H.

17. Over the next few weeks, ROBBINS produced the following records regarding Part 3 of the request: 1) PDF document titled “Annual Treasurer Report for Period Ending in 4/2020”; 2) an Excel sheet of July Treasurer’s Report; and 3) a PDF document of August Treasurer’s Report.

18. ROBBINS’ response regarding Part 3 does not resolve THE SOUTHLAND JOURNAL’s request, which sought “all” Treasurer’s Reports since January 1, 2020.

19. On February 9, 2021, and February 11, 2021, ROBBINS produced some records pertaining to Part 2 of the request, but the records were not fully responsive to Part 2 of the request and did not resolve THE SOUTHLAND JOURNAL’s request for the warrant lists.

20. The records produced on February 9 and February 11 do not show expenditures.

21. Regarding Part 2, ROBBINS did not produce any records for the following months in 2020: January, February, March, April, May, June, July, September, and October.

22. Regarding Parts 1, 4, and 5, ROBBINS has produced no records.

23. Even though THE SOUTHLAND JOURNAL attempted to resolve this matter without litigation, ROBBINS continued to delay its response and has failed to respond to the request for over two months.

24. ROBBINS has not demonstrated that it conducted an adequate search for the records responsive to the request.

25. As of the date of this filing, ROBBINS has not issued a response letter.

26. As of the date of this filing, ROBBINS has not complied with FOIA and has not produced all records responsive to the request.

**COUNT I – NOVEMBER 25, 2020, FOIA REQUEST,
FAILURE TO PRODUCE RECORD**

27. The above paragraphs are incorporated by reference.

28. VILLAGE OF ROBBINS is a public body under FOIA.

29. The records sought in the FOIA request are non-exempt public records of VILLAGE OF ROBBINS.

30. VILLAGE OF ROBBINS violated FOIA by failing to produce all records responsive to the request.

**COUNT II – NOVEMBER 25, 2020, FOIA REQUEST,
FAILURE TO PERFORM AN ADEQUATE SEARCH**

31. The above paragraphs are incorporated by reference.

32. VILLAGE OF ROBBINS is a public body under FOIA.

33. VILLAGE OF ROBBINS bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.

34. VILLAGE OF ROBBINS has failed to come forward with sufficient evidence to carry this burden.

35. VILLAGE OF ROBBINS has violated FOIA by failing to adequately search for responsive records.

**COUNT III – NOVEMBER 25, 2020, FOIA REQUEST,
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

36. The above paragraphs are incorporated by reference.

37. VILLAGE OF ROBBINS is a public body under FOIA.

38. The records sought in the FOIA request are non-exempt public records of VILLAGE OF ROBBINS.

39. VILLAGE OF ROBBINS willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

WHEREFORE, THE SOUTHLAND JOURNAL asks that the Court:

- i. declare that VILLAGE OF ROBBINS has violated FOIA;

- ii. order VILLAGE OF ROBBINS to conduct an adequate search for the requested records;
- iii. order VILLAGE OF ROBBINS to produce the requested records;
- iv. enjoin VILLAGE OF ORBBINS from withholding non-exempt public records under FOIA;
- v. order VILLAGE OF ROBBINS to pay civil penalties;
- vi. award THE SOUTHLAND JOURNAL reasonable attorneys' fees and costs; and
- vii. award such other relief the Court considers appropriate.

Dated: February 26, 2021

RESPECTFULLY SUBMITTED,
/s/ Merrick J. Wayne

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THE SOUTHLAND JOURNAL

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