

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

DEBBIE SOUTHORN and ERIN GLASCO,)
)
Plaintiffs,)
)
v.)
)
THE OFFICE OF THE MAYOR OF)
THE CITY OF CHICAGO,)
)
Defendant.)

COMPLAINT

NOW COME Plaintiffs, DEBBIE SOUTHORN and ERIN GLASCO, by and through their undersigned attorneys, and bring this Freedom of Information Act (FOIA) suit to remedy Defendant OFFICE OF THE MAYOR OF THE CITY OF CHICAGO’S willful refusal to comply with FOIA. In support of its Complaint, Plaintiffs state as follows:

INTRODUCTION

1. This lawsuit is about the public’s right to full and complete information regarding the proposed construction of a \$95 million police and fire training academy called the Joint Public Safety Training Academy (“JPSTA”) in the West Garfield Park neighborhood of Chicago.

2. 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 official and public employees consistent with the terms of the Illinois Freedom of Information Act (“FOIA”). Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political

judgments and monitoring the government to ensure that it is being conducted in the public interest. 5 ILCS 140/1.

3. All 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.

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 Office of the Mayor of the City of Chicago (“Mayor’s Office”) has violated FOIA by improperly claiming the deliberative process exemption in response to requests for documents and email communications sent or received by certain members of Mayor Emanuel’s staff concerning the JPSTA and by failing to conduct sufficient searches for responsive records.

6. The City of Chicago has a history of keeping important information hidden from the citizens of Chicago for political gain, especially as it relates to the Chicago Police Department. This was demonstrated most recently by its vigorous resistance to releasing the video of the police killing of Laquan McDonald. It is essential that the City make publicly available full and complete information regarding the JPSTA, so that the people of Chicago can use the tools at their disposal to thoroughly address and debate all issues raised by the potential construction of this facility.

PARTIES

7. Plaintiffs Erin Glasco and Debbie Southorn are the FOIA requestors in this case. Plaintiffs are independent journalists and members of the #NoCopAcademy campaign. The #NoCopAcademy campaign is an effort supported by community organizations across Chicago who are advocating for investment in communities rather than expanded police resources.

8. Defendant Office of the Mayor of the City of Chicago (“the Mayor’s Office”), is a “public body” as defined by 5 § ILCS 140/2(a).

JURISDICTION AND VENUE

9. This action arises under the Illinois Freedom of Information Act, 5 ILCS § 140/1, *et. seq.*

10. Jurisdiction and venue are proper in this Court pursuant to 5 ILCS §150/11(c) because Defendant is located in Cook County.

FACTUAL BACKGROUND

11. On July 3, 2017, Mayor Rahm Emmanuel announced that the City of Chicago was developing a Joint Public Safety Training Academy (JPSTA) in Chicago’s West Garfield Park neighborhood that was going to cost an estimated \$95 million.

12. Plaintiffs Debbie Southorn and Erin Glasco have submitted FOIA requests to Defendant Mayor’s Office seeking records related to the proposed JPSTA. The plans and decision to build the JPSTA has been clothed in secrecy. There has been no input from residents of the west side or Chicago as a whole as to whether such an academy is necessary. Now that Mayor Emanuel’s plan to build such a facility has been revealed, it is a source of great frustration for countless residents of the City, many of whom object to \$95 million taxpayer money being spent, when Mayor Emanuel and the City of Chicago have shuttered 50 public schools and

mental health clinics, many located on the west and south sides of Chicago, along with other necessary services that support the health and wellbeing of City residents. Plaintiffs seek information about the JPSTA so that the public, including members of the impacted communities, may have an informed dialogue about the proposed construction of the expensive facility in a community that habitually grapples with being under-resourced.

13. On September 26, 2017, Plaintiff Southorn requested from the Mayor's Office "Any and all documents, including e-mails, meeting transcripts, and draft ordinances, documenting communication between [Mayor's Office staff] Janey Rountree, Walter Katz, Clothilde Ewing, Adam Collins, or Kelley Quinn and the Office of 37th Ward Alderman Emma Mitts, from January 1, 2016 through September 5th, 2017." A true and correct copy of the request is attached as Exhibit A.

14. The Mayor's Office responded on October 11, 2017, but did not produce a single document related to the JPSTA. Instead it produced a redacted email 42 pages in length consisting largely of error messages. A true and correct copy of the response is attached as Exhibit B.

15. Plaintiff Southorn sought to narrow her September 26 request to focus on records related to the JPSTA. To that end, on November 15, 2017, she requested "Any and all documents, including e-mails and meeting notes and transcripts, documenting communication between [Mayor's staff] Janey Rountree, Walter Katz, Clothilde Ewing, Adam Collins, or Kelley Quinn and the Chicago Infrastructure Trust, mentioning or in reference to the Joint Public Safety Training Academy project (JPSTA) from July 1, 2016 through November 15th, 2017." A true and correct copy of the request is attached as Exhibit C.

16. On December 4, 2017 the Mayor's Office responded that Plaintiff's request was duplicative, and only produced records between the dates of September 6 and November 15, 2017. In its response, the Mayor's Office invoked Section 7(1)(f) of FOIA and declared it was redacting and withholding information responsive to Plaintiff Southorn's request. A true and correct copy of the response is attached as Exhibit D.

17. Section 7(1)(f) of FOIA applies to opinions expressed during deliberation on matters of government policy but does not apply to factual information.

18. On October 19, 2017 Plaintiff Erin Glasco requested "all e-mail communication over one calendar year (October 15, 2016 to October 15, 2017) regarding the Joint Public Safety Training Academy (or JPSTA)" between David.Reynolds@cityofchicago.org and/or Yasmine.Miranda@cityofchicago.org with Adam.Collins@cityofchicago.org, Grant.Klinzman@cityofchicago.org, and Robert.Rivkin@cityofchicago.org." A true and correct copy of the request is attached as Exhibit E.

19. On November 7, 2017, the Mayor's Office responded and produced some records, but redacted and withheld information based on the deliberative process exemption, pursuant to Section 7(1)(f) of FOIA. A true and correct copy of the response is attached as Exhibit F.

20. On December 6, 2017, Plaintiff Southorn requested "Any and all documents, including e-mails and meeting transcripts, documenting communication between Brenda Garcia, Walter Katz, Janel Forde, Anthony Pascente, or Alanna Washington and the Department of Planning and Development, specifically David Reifman, mentioning or in reference to the Joint Public Safety Training Academy (JPSTA) from January 1, 2017 through December 5th, 2017." A true and correct copy of the request is attached as Exhibit G.

21. On December 6, 2017, Plaintiff Southorn also requested “Any and all documents, including e-mails and meeting transcripts, documenting communication between Brenda Garcia, Walter Katz, Janel Forde, Anthony Pascente, or Alanna Washington and the office of 37th ward alderwoman Emma Mitts, including Chris Carter, from January 1, 2017 through December 5th, 2017.” A true and correct copy of the request is attached as Exhibit H.

22. On December 20, 2017, the Mayor’s Office responded to Plaintiff Southorn’s December 6 requests and produced some records but again redacted and withheld information based on the deliberative process exemption, pursuant to Section 7(1)(f) of FOIA. A true and correct copy of the response is attached as Exhibit I.

23. On December 27, 2017, Plaintiff Debbie Southorn requested from the Mayor’s Office a “listing (or index) of all the e-mail you have not been able to produce in full in my prior two FOIA requests.” A true and correct copy of the request is attached as Exhibit J.

24. On January 11, 2018, the Office of the Mayor produced a log in response to Plaintiff’s December 6 request. The log indicates that the Mayor’s Office both redacted and withheld entire emails responsive to Plaintiff Southorn’s FOIA requests. A true and correct copy of the response is attached as Exhibit K.

25. Upon information and belief, Defendant Mayor’s Office withheld records responsive to Plaintiffs’ September 26, October 19, November 15, and December 6 requests that contain at least some factual information and information unrelated to opinion and policy decisions.

26. Upon information and belief, Defendant Mayor’s Office redacted information from the documents it produced in response to Plaintiffs’ September 26, October 19, November 15, and December 6 requests despite that information not being subject to any FOIA exemption.

27. Upon information and belief, Defendant Mayor's Office did not sufficiently search for all responsive records nor did it search for or inquire about any responsive emails on personal email accounts.

Count One – September 26 Willful Violation of FOIA

28. The above paragraphs are incorporated by reference.

29. The Mayor's Office is a public body under FOIA.

30. The records sought in Plaintiff's September 26, 2017 FOIA request are non-exempt public records.

31. The Mayor's Office has failed to produce all non-exempt information as the production contains redactions.

32. The Mayor's Office failed to conduct an adequate search for all responsive records.

33. The Mayor's Office has willfully and intentionally violated FOIA by refusing to produce the requested records and withholding responsive information.

Count Two – October 19 Willful Violation of FOIA

34. The above paragraphs are incorporated by reference.

35. The Mayor's Office is a public body under FOIA.

36. The records sought in Plaintiff's October 19, 2017 FOIA request are non-exempt public records.

37. The Mayor's Office has failed to produce all non-exempt information as the production contains redactions. In addition, the Mayor's Office withheld entire records responsive to Plaintiff's FOIA requests.

38. The Mayor's Office failed to conduct an adequate search for all responsive records.

39. The Mayor's Office has willfully and intentionally violated FOIA by refusing to produce the requested records and withholding responsive information.

Count Three – November 15 Willful Violation of FOIA

40. The above paragraphs are incorporated by reference.

41. The Mayor's Office is a public body under FOIA.

42. The records sought in Plaintiff's November 15, 2017 FOIA request are non-exempt public records.

43. The Mayor's Office has failed to produce all non-exempt information as the production contains redactions. In addition, the Mayor's Office withheld entire records responsive to Plaintiff's FOIA requests.

44. The Mayor's Office failed to conduct an adequate search for all responsive records.

45. The Mayor's Office has willfully and intentionally violated FOIA by refusing to produce the requested records and withholding responsive information.

Count Four – December 6, 2017 Willful Violation of FOIA

46. The above paragraphs are incorporated by reference.

47. The Mayor's Office is a public body under FOIA.

48. The records sought in Plaintiff's December 6, 2017 FOIA requests are non-exempt public records.

49. The Mayor's Office has failed to produce all non-exempt information as the production contains redactions. In addition, the Mayor's Office withheld entire records responsive to Plaintiff's FOIA requests.

50. The Mayor's Office failed to conduct an adequate search for all responsive records.

51. The Mayor's Office has willfully and intentionally violated FOIA by refusing to produce the requested records and withholding responsive information.

WHEREFORE, Plaintiffs ask that this Court: (1) 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; (2) Declare Defendant Mayor's Office to be in violation of the Illinois Freedom of Information Act, 5 ILCS §140/1; (3) Enjoin Defendant Mayor's Office from continuing to withhold any and all non-exempt public records responsive to Plaintiffs' above-listed FOIA requests and further require Defendant Mayor's Office to produce any and all such records to Plaintiffs without delay; (4) Order Defendant Mayor's Office to prepare an affidavit declaring that it has fully and completely complied with Plaintiffs' FOIA requests and that all public records responsive to these records have been produced; (5) Order Defendant Mayor's Office to prepare an affidavit identifying with specificity all public records responsive to Plaintiffs' FOIA requests that are claimed to be subject to legal exemption from disclosure and identifying with specificity any reasons claimed for any exemptions; (6) Award Plaintiffs reasonable attorneys' fees and costs pursuant to 5 ILCS 140/1(i); (7) find that Defendant Mayor's Office willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith and impose on Defendant Mayor's Office a civil penalty of not less than \$2,500 or more than \$5,000 payable to Plaintiffs pursuant to 5 ILCS 140/11(j); and (8) Order such other and further relief as the Court finds just and equitable.

Dated: March 26, 2018

Respectfully submitted,

/s/ Shubra Ohri

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