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**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
CHAMPAIGN COUNTY, ILLINOIS**

*Susan W. McGee*  
CLERK OF THE CIRCUIT COURT  
CHAMPAIGN COUNTY, ILLINOIS

CHRISTOPHER HANSEN, )  
)  
Plaintiff, )  
)  
v. )  
)  
CITY OF CHAMPAIGN, )  
)  
Defendants. )

2021CH000018

**COMPLAINT**

NOW COMES Plaintiff, CHRISTOPHER HANSEN, by the undersigned attorneys, Loevy & Loevy, and brings this suit to overturn Defendant CITY OF CHAMPAIGN’s willful violation of the Illinois Freedom of Information Act. Defendant CITY OF CHAMPAIGN has failed to comply with HANSEN’s Freedom of Information Act request for all human rights complaints that CHAMPAIGN received in 2020 and 2021. In support of the Complaint, HANSEN 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.

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 CHRISTOPHER HANSEN made the FOIA request at issue in this case.

5. Defendant CITY OF CHAMPAIGN (“CHAMPAIGN”) is a public body located in Champaign County, IL.

### **FEBRUARY 7, 2021, FOIA REQUEST**

6. On February 7, 2021, HANSEN submitted a FOIA request to CHAMPAIGN for “all human rights complaint submitted to the City of Champaign in 2020 and 2021.” The response letter that quotes the original request is attached as Exhibit A.

7. On February 11, 2021, CHAMPAIGN assigned reference number 21-033 to the matter and denied the request in its entirety. *Id.*

8. CHAMPAIGN withheld the records citing Sections 7(1)(a) and 7(1)(d)(iv) of FOIA. *Id.*

9. CHAMPAIGN cited the Champaign Municipal Code Section 17-104(c) and (e) to withhold the records under Section 7(1)(a) of FOIA. *Id.*

10. CHAMPAIGN explained, “The Human Relations Commission is an agency created by CHAMPAIGN pursuant to Illinois Human Rights Act to enforce and investigate violations of the City’s Human Rights Ordinance, located at Chapter 17 of the Champaign Municipal Code.” *Id.*

11. Citing Champaign Municipal Code Sections 17-104(c) and 17-104(e), CHAMPAIGN claimed that the records responsive to the request are “not open to the public through the complaint filing, investigation, and conciliation phases.” *Id.*

12. CHAMPAIGN further stated that the hearing information regarding the case becomes available to the public if a case proceeds to a hearing. *Id.*

13. CHAMPAIGN informed HANSEN that “[n]o human rights complaints proceeded to a public hearing in 2020, nor have any proceeded to public hearing to date in 2021.” *Id.*

14. Section 7(1)(a) of FOIA exempts “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” 5 ILCS 140/7(1)(a).

15. In support of Section 7(1)(a), CHAMPAIGN only cites its municipal code to withhold the records.

16. A municipal ordinance is not “State law” and cannot be used as a reason to exempt documents from disclosure. *City of Chicago v. Jansen Pharmaceuticals Inc.*, 2017 IL App (1<sup>st</sup>) 150870 (2017).

17. In its denial letter, CHAMPAIGN mentions the Illinois Human Rights Act (775 ILCS 5), but only to assert that it gives CHAMPAIGN authority to create the Human Rights Commission. Exhibit A.

18. The Illinois Human Rights Act does not “specifically prohibit” the disclosure of the requested records—human rights complaints that CHAMPAIGN received in 2020 and 2021.

19. Section 7(1)(d)(iv) states, in relevant part:

Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but *only to the extent that disclosure would:*

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies.

5 ILCS 140/7(1)(d)(iv) (emphasis added).

20. In violation of Section 9(a) of FOIA, CHAMPAIGN has not provided a “detailed factual basis for the application of any exemptions claimed.” 5 ILCS 140/9(a).

21. Specifically, CHAMPAIGN has not shown how the disclosure of the requested records *would* “unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies.” 5 ILCS 140/7(1)(d)(iv).

22. HANSEN is not seeking personal information or the identities of the complainants, and CHAMPAIGN may redact any such information that would “unavoidably disclose the identity of” persons who filed the complaints.

23. CHAMPAIGN has not demonstrated that the requested records are exempt.

24. The records responsive to the request are not exempt.

25. As of the date of this filing, CHAMPAIGN has not complied with FOIA and has produced no responsive records.

**COUNT I – FEBRUARY 7, 2021, FOIA REQUEST,  
FAILURE TO PRODUCE RECORDS**

26. The above paragraphs are incorporated by reference.

27. CITY OF CHAMPAIGN is a public body under FOIA.
28. The records sought in the FOIA request are non-exempt public records.
29. CITY OF CHAMPAGIN violated FOIA by failing to provide records responsive to the request.

**COUNT II – FEBRUARY 7, 2021, FOIA REQUEST,  
FAILURE TO PERFORM AN ADEQUATE SEARCH**

30. The above paragraphs are incorporated by reference.
31. CITY OF CHAMPAIGN is a public body under FOIA.
32. CITY OF CHAMPAIGN bears the burden of proving beyond material doubt that it performed an adequate search for responsive records.
33. CITY OF CHAMPAIGN has failed to come forward with sufficient evidence to carry this burden.
34. CITY OF CHAMPAIGN has violated FOIA by failing to adequately search for responsive records.

**COUNT III – FEBRUARY 7, 2021, FOIA REQUEST,  
WILLFUL AND INTENTIONAL VIOLATION OF FOIA**

35. The above paragraphs are incorporated by reference.
36. CITY OF CHAMPAIGN is a public body under FOIA.
37. The records sought in the FOIA request are non-exempt public records.
38. CITY OF CHAMPAIGN has willfully and intentionally or otherwise in bad faith violated FOIA.

**WHEREFORE**, HANSEN asks that the Court:

- i. declare that CITY OF CHAMPAIGN has violated FOIA;
- ii. order CITY OF CHAMPAIGN to conduct an adequate search for the request records;

- iii. order CITY OF CHAMPAIGN to produce the requested records;
- iv. enjoin CITY OF CHAMPAIGN from withholding non-exempt public records under FOIA;
- v. order CITY OF CHAMPAIGN to pay civil penalties;
- vi. award HANSEN reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

Dated: March 31, 2021

RESPECTFULLY SUBMITTED,  
*/s/ Joshua Hart Burday*

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Frederick C. Stavins, City Attorney  
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Kathryn Cataldo, Assistant City Attorney  
Thomas Yu, Assistant City Attorney

February 11, 2021

Mr. Christopher Hansen  
[REDACTED]

RE: FOIA request #21-033 – Human Rights Complaints

Dear Mr. Hansen:

On February 7, 2021, you made the following request for records:

“All human rights complaints submitted to the City of Champaign in 2020 and 2021.”

Your request is denied pursuant to the following exemptions:

- (1) 5 ILCS 140/7(1)(a) (“information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law”), and
- (2) 5 ILCS 140/7(1)(d)(iv) (“records in the possession of any public body created in the course of administrative enforcement proceedings . . . but only to the extent that disclosure would . . . unavoidably disclose the identity of . . . persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies”).

The Illinois Human Rights Act authorizes political subdivisions to create local commissions to further the purposes of the Act and enables local commissions to enact ordinances and rules to investigate allegations of discrimination. *See* 775 ILCS 5/7-108(A). The Human Relations Commission is an agency created by the City of Champaign pursuant to the Illinois Human Rights Act to enforce and investigate violations of the City’s Human Rights Ordinance, located at Chapter 17 of the Champaign Municipal Code.

The Human Rights Ordinance sets forth procedures for the receipt and investigation of complaints of discrimination which mirror those in the Illinois Human Rights Act. *See* Champaign Municipal Code (“CMC”) Sections 17-101 to 17-128. Pursuant to the Human Rights Ordinance, information regarding cases is not open to the public through the complaint filing, investigation, and conciliation

Exhibit A

phases. *See* CMC Sec. 17-104(c), 17-104(e). If a case proceeds to a hearing, the hearing and information regarding the case become open to the public at that point. CMC Sec. 17-122. No human rights complaints proceeded to a public hearing in 2020, nor have any proceeded to public hearing to date in 2021.

You have a right to request review of this response by the Illinois Public Counselor:

Public Access Bureau  
Office of the Attorney General  
500 S. 2<sup>nd</sup> Street  
Springfield, Illinois, 62706  
(217) 558-0486  
[publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a)

You may also file suit for injunctive or declaratory relief in the Circuit Court of Champaign County, Illinois. 5 ILCS 140/11

Sincerely,

*Jennifer Gover Bannon*

Jennifer Gover Bannon  
Assistant City Attorney

JGB/sjg

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