

STATE OF INDIANA)
) ss: ST. JOSEPH CIRCUIT/SUPERIOR COURT
COUNTY OF ST. JOSEPH) CAUSE NO. 71_____-1911-MI-
 71C01-1911-MI-000793

JUDICIAL WATCH, INC.,)
c/o Jones Law Office LLC)
205 W. Jefferson Blvd., STE. 200)
South Bend, IN 46601)
Plaintiff,)

v.)

CITY OF SOUTH BEND,)
c/o Mayor Peter Buttigieg)
227 W. Jefferson Blvd., Ste. 1400N)
South Bend, IN 46601)

CITY OF SOUTH BEND)
c/o Tim Scott, President)
South Bend Common Council)
227 W. Jefferson Blvd., Ste 441S)
South Bend, IN 46601)

CITY OF SOUTH BEND)
c/o Stephanie Steele,)
Corporation Counsel)
227 W. Jefferson Blvd., Ste 1200)
South Bend, IN 46601)

CITY OF SOUTH BEND)
South Bend Common Council)
227 W. Jefferson Blvd., Ste 441S)
South Bend, IN 46601)
Defendant.)

COMPLAINT

Plaintiff Judicial Watch, Inc., by its attorney, Andrew B. Jones of Jones Law Office LLC, brings this action against the City of South Bend to compel compliance with the Access to Public Records Act. Judicial Watch states as follows:

Jurisdiction and Venue

1. Jurisdiction and venue are proper in St. Joseph County pursuant to Ind. Code § 5-14-3-9(e).

Parties

2. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization that seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Judicial Watch regularly requests records under federal and state “open records” laws, analyzes the responses and any records it receives, and disseminates its findings and the records to the public to inform them about their government.

3. Defendant is the City of South Bend, a public agency as defined by Ind. Code § 5-14-3-2(q)(2)(A).

Statement of Facts

4. On November 1, 2019, Judicial Watch submitted an APRA request to South Bend seeking “All audio tapes secretly recorded on the telephone line of a South Bend Police Department detective that were subsequently discovered by former Communications Director Karen DePaepe in January 2011 and that became the subject of Litigation by Common Council.”

5. The audiotapes requested are public records as defined in Ind. Code § 5-14-3-2(r).

6. South Bend responded to Judicial Watch's request on November 5, 2019. South Bend denied Judicial Watch's request.

7. On November 13, 2019, Judicial Watch submitted a second APRA request. This request sought "An Officer's Report filed on January 4, 2012 by SBPD Office Karen DePaepe detailing the contents of audio tapes Ms. DePaepe heard, which reportedly contain racist remarks by certain SBPD police officials.

8. The records requested are public records as defined in Ind. Code § 5-14-3-2(r).

9. South Bend responded to Judicial Watch's second request on November 5, 2019. South Bend denied Judicial Watch's request.

Count I
(Failure to Produce All Non-Exempt Information)

10. Judicial Watch reaffirms paragraphs 1-7 as though fully restated herein.

11. South Bend asserts it is withholding all or part of the requested public records pursuant to a Stipulated and Agreed Standstill Order in *South Bend Common Council v. South Bend City Administration*, Cause No. 71D07-1209-MI-00159 as well as Ind. Code 5-14-3-4(a)(1), (2), (3), and (8).

12. Neither the court's order nor Indiana code authorizes the withholding of the requested public records.

13. Judicial Watch is being irreparably harmed by Defendants' failure to produce all non-exempted information responsive to Judicial Watch's two APRA

requests as Judicial Watch is being denied its legal right to inspect public records.
Ind. Code § 5-14-3-3.

14. Judicial Watch has no adequate remedy at law.

WHEREFORE, Judicial Watch prays that the Court: (1) declare South Bend to be in violation of the Access to Public Records Act; (2) enjoin South Bend from continuing to withhold access to any and all non-exempted public records responsive to Judicial Watch's two APRA requests and further enjoin South Bend to produce any and all such records to Judicial Watch without further delay; and (3) order such other and further relief as the Court finds just and equitable.

Respectfully submitted,
JONES LAW OFFICE LLC

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