

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 25, 2015

Ms. Diane Benjamin
Bloomington Normal News
27248 East 1100 North Road
Ellsworth, Illinois 61737

RE: FOIA Request for Review – 2015 PAC 33370

Dear Ms. Benjamin:

The Public Access Bureau has received the enclosed response to your Request for Review from the Attorney for the City of Bloomington. Additional confidential materials provided to the Public Access Bureau have been withheld.

You may, but are not required to, reply in writing to the public body's response. If you choose to reply, you must submit your reply to this office within 7 working days of your receipt of this letter. 5 ILCS 140/9.5(d) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014. Please send a copy of your reply to the City as well.

If you have questions about this matter, please contact me at (217) 785-7438.

Very truly yours,

A handwritten signature in black ink that reads "Christopher Boggs" with a small flourish at the end.

CHRISTOPHER BOGGS
Assistant Attorney General
Public Access Bureau

Enclosure

cc: Mr. Jeffrey Jurgens, Esquire
City of Bloomington
109 East Olive
PO Box 3157
Bloomington, Illinois 61702-3157

February 20, 2015

Mr. Christopher Boggs
Assistant Attorney General
Office of the Attorney General
Public Access Bureau
500 South Second Street
Springfield, IL 62706

RECEIVED
ATTORNEY GENERAL

FEB 23 2015

RE: OMA Request for Review – 2015 PAC 33370

FOIA/OMA

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Dear Mr. Boggs:

I am writing in response to your request that the City of Bloomington provide un-redacted copies of the documents responsive to Diane Benjamin's FOIA request dated January 5, 2015. This was a four-part request seeking, in part: (1) copies of all complete Coliseum micros reports for fiscal year 2014; and (2) the detailed payroll for the Coliseum for calendar year 2014. It is the City's understanding that the City's response, and this request for review, is limited only to these two items.

As we discussed on the phone on February 18, 2015, the documents requested are in the possession of a third-party known as Central Illinois Arena Management ("CIAM"). Upon receipt of your letter on February 12, 2015, I immediately forwarded a copy of your letter and the request to CIAM's attorney, Bill Mueller. This correspondence indicated receipt of the Request for Review and that the requested documents would need to be provided to the Attorney General's office by February 20, 2015, along with any arguments on why the documents are exempt.

Pursuant to our recent conversation, CIAM is still compiling the micros reports, which I am told are several thousand pages. That said, CIAM has advised that they will have the documents to you no later than March 5, 2015, along with any supplemental response. Please see the attached correspondence from Mr. Mueller on this.

It is my understanding that CIAM will not be providing copies of the micro reports to the City. Accordingly, we will not have the advantage of reviewing the reports and providing a response directly tied to the documents. That said, the City is left to rely on the representations of CIAM as such related to the content of the documents and the claimed exemptions.

As to the request for the payroll information, CIAM has provided that and the City is providing that to your office under claim of privilege and said documents will not further be disclosed to any third-parties. Note the documents provided to the City by CIAM did contain the redaction of some tax ID and other private information. The information provided by CIAM likewise does not contain the individual names of employees.

In response to the original request by Ms. Benjamin, the City provided the attached letter from Bill Mueller, CIAM's attorney. This letter sets forth the basis for the City's exemptions, including specifically Section 7(1)(g).

Section 7(1)(g) of the Freedom of Information Act ("FOIA") exempts from disclosure the following:

Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

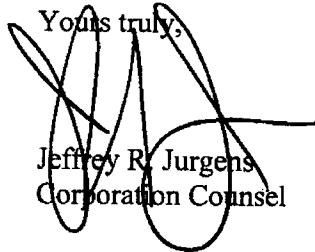
As set forth in the attached letter, CIAM claims that the release of the concession reports (i.e., micros reports) will cause competitive harm and damage to both CIAM and the City. According to CIAM, the provision of concession reports, as they relate to specific events, provides proprietary financial information that vendors and entertainers would use to their advantage to the detriment of the City. Many performers also require strict confidentiality

terms in relation to the finances and revenues associated with their performances. Note that CIAM has offered to provide a monthly breakdown of concessions and the annual numbers are provided on the City's website and within the audit. CIAM, however, has strongly objected to the release of the concession reports tied to specific events as such would put it, and therefore the City, at a competitive disadvantage.

CIAM has also refused to provide detailed payroll information, arguing that it is a private company and similar arguments set forth in the attached letter. Accordingly, it has refused to provide the detailed payroll records for release. Note that the overall payroll costs are set forth in various public documents, including expense reports and budgets.

If you require additional information or further explanation, please feel free to contact me at (309) 434-2213.

Yours truly,

A handwritten signature in black ink, appearing to read 'JJ', is written over the typed name and title.

Jeffrey R. Jurgens
Corporation Counsel

JJ:js
Enclosures



LAW OFFICE
MUELLER, REECE & HINCH, LLC

202 NORTH CENTER STREET
BLOOMINGTON, IL 61701

WILLIAM A. MUELLER, JR.
JAY D. REECE
NATHAN B. HINCH

February 20, 2015

PHONE: (309) 827-4055
FAX: (309) 829-6742
WWW.MRH-LAW.COM

Via Email and Regular Mail

Mr. Jeffrey R. Jurgens
City of Bloomington
109 East Olive Street
Bloomington, Illinois 61701

RE: Benjamin/Smith FOIA Request-Attorney General Review
My Client: Central Illinois Arena Management, Inc.
File No.: 15-5000-BT

Dear Jeff:

I am writing on behalf of my client, Central Illinois Arena Management, Inc., the contract manager of the U.S Cellular Coliseum. This is in response to your email to me dated February 12, 2015 regarding documents for the Attorney General's in camera review of the management company's documents regarding the above FOIA request.

Later today, John Butler will deliver to your office at City Hall the items regarding payroll in response to paragraph two of your February 12th email.

The balance of the documents are quite voluminous and require substantial staff time to compile and review. Accordingly, my client requires ten additional business days to produce those items, or until Thursday March 5, 2015. At that time you will also receive a letter detailing my client's basis for applying exemptions under the Act.

Please advise if you have any questions.

Very truly yours,

William A. Mueller, Jr. /SLP

William A. Mueller, Jr.

WAM/slp

cc: John Y. Butler -- Via Email Only



LAW OFFICE
MUELLER, REECE & HINCH, LLC

202 NORTH CENTER STREET
BLOOMINGTON, IL 61701

WILLIAM A. MUELLER, JR.
JAY D. REECE
NATHAN B. HINCH

January 15, 2015

PHONE: (309) 827-4055
FAX: (309) 829-6742
WWW.MRH-LAW.COM

Via Email Only

Mr. Jeffrey R. Jurgens
City of Bloomington
109 East Olive Street
Bloomington, Illinois 61701

RE: My Client: Central Illinois Arena Management, Inc./
City of Bloomington FOIA Requests
File No.: 13-5000-BT

Dear Jeff:

This is to follow up our meeting on the afternoon of January 12, 2015 which included you and Mr. Hales along with other City staff members and John Butler and some of his staff. You and Mr. Hales requested this letter with reference to certain FOIA requests received by the City for specific, detailed financial items of the Coliseum.

As stated by John Butler and other Coliseum staff members, the Coliseum operates in an extremely competitive market and atmosphere. This is especially true since the economic downturn of 2008. The Coliseum competes with venues in Peoria, Moline, Rockford and Champaign along with some local venues. It competes not only for patrons in ticket sales but also for shows and events.

Negotiations with performers and event representatives are based upon relationships, sometimes personal, which are built over time. These relationships are based upon trust, the business reputation of the building managers and the success of past shows. Venues such as the Coliseum depend upon "repeat business" from promoters and event agents. Like any business there are protocols, customs and practices which if breached will result in substantial long term damage to the relationships and the consequential loss of events. Plainly and simply, the promoters and performers agents won't return your telephone calls.

The process of procuring an artist or event is a negotiation. The negotiation for each show is unique; it involves not only a rental amount and/or split of ticket revenue but other factors such as venue support staff for the show, meals for the performer's staff and crew, parking and concessions. The interest that a competing venue has in the event or performer is also a significant factor. The promoters like to create an auction or "bidding war" for the event. The ability to get shows and draw patrons

Mr. Jeffrey R. Jurgens
January 15, 2015
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directly impacts not only general Coliseum revenue but also revenue from sponsorships, concessions, parking, the sale of suites and the sale of club seats.

Event contracts usually embody some of the protocols, customs and practices of the industry, but virtually all of them require that specific financial detail regarding each show remain confidential and are considered proprietary information of the promoter/performer and the venue. Accordingly, detailed financial information regarding a specific show, including ticket revenue, in kind services provided for the event, merchandise and concession revenue is by contract, custom, trade and practice confidential and proprietary information. If such information is released, it is a breach of the performer's contract and a blow to the management company's reputation and relationship with the promoter and event agent. Some contracts call for liquidated damage if confidentiality terms are breached.

Further, detailed and specific information regarding management company employees is also confidential and proprietary. This includes personal contact information, job descriptions, details regarding the responsibilities, tasks and duties of each, individual compensation and benefits, and any other information which would put the management company at a competitive disadvantage. All such information is proprietary and confidential information of the management company.

Central Illinois Arena Management is a private, nonpublic company as is the company that operates the concessions at the Coliseum. All concession revenue is revenue of the concessionaire and the records are property of the concessionaire. The management company may audit and review records to assure the proper payment of concession commissions.

Neither the management company nor the concession company are public bodies as defined in the subject statute.

Also, I believe there is a good faith question whether the management company operates any type of governmental function. It is not defined in the statute.

However, the statute does define private information as a person's personal financial information. Keep in mind that a person includes companies and corporations as defined in the statute. Specifically exempt under the statute is private information (as defined) along with trade secrets and commercial or financial information of a business where such are privileged and confidential. Clearly, from the information above, the disclosure of the specific information requested will result in competitive harm to the Coliseum and not only to the management company but to the City of Bloomington as well.

Mr. Jeffrey R. Jurgens
January 15, 2015
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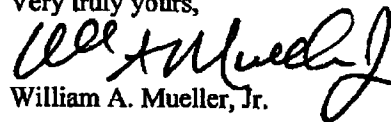
Further, I believe it is very reasonable to conclude that the disclosure of the detailed information is an unwarranted invasion of privacy. That is because there are substantial, detailed public records and information regarding the Coliseum's income, expenses and financial activities. These include the monthly reports by the management company to the City, monthly food and beverage reports/tax returns and the annual audit of Coliseum finances. From the public information, anyone can see by category and line item the revenue and expenses including the Coliseum concession receipts and the total payroll and employee expense for the Coliseum.

The City of Bloomington is on sound legal ground to withhold the specific information requested. Considering the statutory definition of "public body", "person" and "private information", it is clear neither the management company nor the concession company is a public entity. "Person" includes companies and entities and personal financial information is specifically "private information".

The Act also exempts from disclosing private information (§7(b)); information that constitutes an unwarranted invasion of privacy (§7(c)); and business trade secrets and commercial or financial information (§7(g)).

As John Butler and other staff members stated, the disclosure of the specific detailed information regarding the Coliseum will in their strong opinion have a substantial, material and adverse affect upon their ability to book shows and events and for it to maintain the high quality staff it has developed over the past eight years. My client believes a single breach of the confidentiality terms and customs will have an immediate negative impact upon their ability to book events and shows and seriously damage the reputations the managers have cultivated and developed in the entertainment industry.

Very truly yours,



William A. Mueller, Jr.

WAM/slp

cc: David Hales
John Y. Butler