

CAUSE NO. D-1-GN-18-002415

BILLY REAGAN
Plaintiff

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IN THE DISTRICT COURT OF

v.

TRAVIS COUNTY

CITY OF AUSTIN
Defendant

353rd
 JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION FOR MANDAMUS
AND REQUEST FOR DISCLOSURE**

Plaintiff Billy Reagan files this Original Petition and would respectfully show the Court as follows:

SUMMARY OF THE CASE

1. a. This case is about the mystery of how new, radically destructive regulations of billboards suddenly, inexplicably made their way into the latest draft of CodeNEXT, Austin’s first major re-write of its land development code in over 30 years. City officials have claimed, wrongly, that CodeNEXT just implements the Imagine Austin Comprehensive Plan, but the new sign regulations is an example that it does no such thing. When Billy Reagan, of Reagan Signs, used the Texas Public Information Act (TPIA) seeking records to try to unravel the mystery, the City of Austin refused to disclose the records, leading to this lawsuit. The Code re-write started in November 2012. By June 10, 2016, the City staff reported to the City Council about feedback from stakeholder groups and staff recommendations on whether to change the City’s sign regulations, saying:

In summary, staff did not find significant reasons to recommend any change from current City policies established through previous Council resolutions and ordinances. Although there is strong stakeholder sentiment for utilizing digital billboards, *there is also strong stakeholder sentiment for maintaining current*

policy.

EXHIBIT P-1, June 10, 2016 memo (emphasis added).

Consistent with this stakeholder and staff recommendation to leave the sign regulations as they were, over the next couple of years, CodeNEXT Draft 1 and Draft 2 did not contain any new provisions. EXHIBIT P-2, CodeNEXT Draft, September 2017 (“Signage – work in progress”). So, it was shocking, when so late in the CodeNEXT process, Draft 3 was recently presented—without any new stakeholder input—with a radical re-write of the Sign Regulations eliminating the ability to relocate billboards, eliminating Board of Adjustment review and appeals, and other changes completely inconsistent with Council direction, stakeholder input, and provisions of Imagine Austin. EXHIBIT P-3. In violation of the TPIA, the City conceals the communications, particularly from its CodeNEXT consultants, that would reveal how those changes to the Sign Regulations came about.

b. Discovery will be conducted under Level 2.

PARTIES

2. Plaintiff Billy Reagan was the requestor in this suit under the Texas Public Information Act (TPIA), and may be served through his attorney of record. The last three digits of Bill Reagan’s driver’s license are 136, and the last three digits of his Social Security number are 498.

3. Defendant City of Austin is a defendant pursuant to TPIA section 552.321 as the governmental body who refused to supply public information requested by Plaintiff. Pursuant to Tex. Civ. Prac. & Rem. Code section 17.024(b), the City can be served through its Mayor, The Honorable Steve Adler, at the Mayor’s office located at 301 W. 2nd Street, Austin, Texas 78701.

JURISDICTION & VENUE

4. This court has jurisdiction over this lawsuit pursuant to Tex. Gov't Code, § 552.321(a). Venue is mandatory in this County pursuant to Tex. Gov't Code, § 552.321(b) because the main office of Defendant City of Austin is located in this County.

FACTS

5. The statements in Paragraph 1 are incorporated here. Billy Reagan made a public information request on March 13, 2018 to the City of Austin, which the City resisted by sending a supposedly “representative sample” of the records to the Attorney General, claiming attorney-client privilege of its communications with the CodeNEXT consultants. EXHIBIT P-4. The City said, “The consultants were hired by the City to advise it on matter related to the rewrite of the land development code, known as CodeNEXT, and they serve as client representatives.” Thus, at least for the Signs portion of CodeNEXT, the City refuses to let the public know what these consultants suggested or why. The City did not let the Attorney General see all of the records the City withheld; instead the City showed the Attorney General only what the City claimed is a “representative sample” of what they refused to disclose to Billy Reagan.

6. In refusing to reveal the information Billy Reagan requested, the City violated the TPIA. Tex. Gov't Code section 552.221(a)(“An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer....”

7. The requested information is included in the definition of “public information” in the TPIA

(Tex. Gov't Code) section 552.002:

a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

CAUSE OF ACTION FOR MANDAMUS

8. Pursuant to TPIA section 552.321, Plaintiff Billy Reagan seeks a writ of mandamus from the Court to compel the City of Austin to provide the public information requested by Plaintiff.

CONDITIONS PRECEDENT

9. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

ATTORNEY FEES

10. Plaintiff was required to engage the legal services of the attorney indicated below, and is entitled to award of costs of litigation and reasonable attorney fees pursuant to TPIA (Tex. Gov't Code) section 552.323.

ORIGINAL PETITION

Page 4 of 5

REQUEST FOR DISCLOSURE

11. Under Texas Rules of Civil Procedure 194, Plaintiff requests that Defendant City of Austin disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

PRAYER

12. For these reasons, Plaintiff asks that the court issue citation for the Defendant City of Austin to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Mandamus against Defendant to promptly provide Plaintiff with all of the information requested by Plaintiff,
- b. court costs and reasonable attorney fees; and
- c. All other relief to which plaintiff is entitled.

Respectfully submitted,



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