

IN THE TWENTY-THIRD JUDICIAL CIRCUIT COURT  
KENDALL COUNTY, ILLINOIS

Coalition Opposing Governmental Secrecy )  
and Metric Media, LLC d/b/a Kendall County )  
Times, )

Plaintiffs, )

v. )

City of Plano, )

Defendant. )

Case No. 2025CH000020

**DEFENDANT'S ANSWER TO COMPLAINT**

NOW COMES Defendant City of Plano ("Plano") by and through its attorneys of Ottosen DiNolfo Hasenbalg & Castaldo, Ltd., and as and for its Answer to the Complaint in the above filed by Plaintiff's Coalition Opposing Governmental Secrecy and Metric Media, LLC d/b/a Kendall County Times (hereinafter referred to as the "Plaintiffs"), answers as follows:

1. Plaintiff Coalition Against Governmental Secrecy ("COGS") COGS is a Missouri non-profit corporation with 501(c)(3) status whose mission is to aid and encourage citizen participation in government and the political process, and to empower the public by helping them access publicly available information via Freedom of Information, Sunshine and similar requests for government records. Some of COGS' member organizations include: Catholic Vote; Edgar County Watchdogs; Judiciocracy LLC (and its publications); Metric Media LLC (and its publications); and The Record Inc (and its publications).

**ANSWER:** Plano has insufficient information to admit or deny the allegations contained in paragraph 1 and demands strict proof thereof.

2. Plaintiff Metric Media, LLC, doing business as the Kendall County Times, is a news media organization committed to providing comprehensive and accurate news coverage on matters of public import and is a news media organization, as defined by FOIA's Section 2(f), in the business of, *inter alia*, reporting on local news and events.

**ANSWER:** Plano has insufficient information to admit or deny the allegations contained in paragraph 2 and demands strict proof thereof.

3. The Defendant, City of Plano ("Defendant"), is a public body, as defined by FOIA's Section 2(a), subject to the jurisdiction of the Circuit Court of Cook County, Illinois.

**ANSWER:** Plano admits that it is a public body as defined by Illinois Freedom of Information Act but denies the allegation that it is subject to the jurisdiction of the Circuit Court of Cook County, Illinois.

4. Jurisdiction is proper in this Court because Defendant is a Public Body under FOIA subject to the jurisdiction of the Circuit Court of Cook County.

**ANSWER:** While Plano admits that it is a Public Body and a City located in Kendall County in which this matter is filed, it denies the allegation that it is subject to the Circuit Court of Cook County.

5. Venue is proper based on 735 ILCS §§ 5/2-101, 103, which, *inter alia*, requires suit be brought in the county in which the transaction or some part of the transaction occurred, or the cause of action arose; and 5 ILCS § 140/11, which provides, *inter alia*, that a lawsuit to enforce a demand for documents under FOIA may be brought in Cook County.

**ANSWER:** While Plano admits that as a City located in Kendall County that Kendall County is the appropriate venue for this action, it denies that Cook County is where the transaction or part of the transaction occurred and denies any allegation associated with Cook County in this matter.

6. Illinois' FOIA statute declares that 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 this Act." 5 ILCS § 140/1.

**ANSWER:** Plano responds that paragraph 6 is an accurate recitation of part of the Illinois Freedom of Information Act.

7. The Illinois Legislature continues to recognize that "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 government to ensure that it is being conducted in the public interest." ID., at § 140/1

**ANSWER:** Plano responds that paragraph 7 is an accurate recitation of part of the Illinois Freedom of Information Act.

8. "Restraints on access to information, to the extent permitted by this Act, 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 any or all of the people... This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act. ID, at § 140/1.

**ANSWER:** Plano responds that paragraph 8 is an accurate recitation of part of the Illinois Freedom of Information Act.

9. "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." Id., at § 140/1.2.

**ANSWER:** Plano responds that paragraph 9 is an accurate recitation of part of the Illinois Freedom of Information Act.

10. In furtherance of the Illinois' Legislatures above goals unless otherwise exempt, public bodies must comply with requests for public documents and information. Id., at §§ 140/1.2, 140/3.

**ANSWER:** Plano responds that paragraph 10 is an accurate recitation of part of the Illinois Freedom of Information Act.

11. Once a request is received, "[e]ach public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request [.]" Id., at § 140/3(d). Such time to respond may be extended for an additional five (5) business days based on good causes. Id., at § 140/3(e).

**ANSWER:** Plano responds that paragraph 11 is an accurate recitation of part of the Illinois Freedom of Information Act.

12. "[A] [d]enial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response or deny a request within 5 business days after [a requests] receipt shall be considered a denial of the request." Id., at § 140/3(d).

**ANSWER:** Plano responds that paragraph 12 is an accurate recitation of part of the Illinois Freedom of Information Act.

13. Moreover, FOIA outlines a number of requirements for a public body and its FOIA Officer to adhere to once it receives a request for a public record. Such requirements include: (1) noting date the request was received; (2) computing the response deadline; (3) creating and maintaining an electronic or paper record of the request until the request is complied with or denied; and (4) creating a file for the retention of the request, response, and all communications concerning the same. 5 ILCS § 140/3.5(a).

**ANSWER:** Plano responds that paragraph 13 is an accurate recitation of part of the Illinois Freedom of Information Act.

14. FOIA also states that if a request is denied, the public body must, *inter alia*, "notify the requester in writing of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial." *Id.*, at § 140/9(a).

**ANSWER:** Plano responds that paragraph 14 is an accurate recitation of part of the Illinois Freedom of Information Act.

15. To enforce the public's right to access public information, FOIA provides a private right of action whereby: "[a]ny person denied access to inspect or copy any public record by a public body may file suit for injunctive or declaratory relief." *Id.*, at § 140/11(a).

**ANSWER:** Plano responds that paragraph 15 is an accurate recitation of part of the Illinois Freedom of Information Act.

16. "If a person seeking the right to inspect or receive a copy of a public record prevails in a proceeding under this Section, the court shall award such person reasonable attorney's fees and costs." Id., at § 140/11(i).

**ANSWER:** Plano responds that paragraph 16 is an accurate recitation of part of the Illinois Freedom of Information Act.

17. Moreover, "[i]f the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith, the court shall also impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence." Id., at § 140/11(j).

**ANSWER:** Plano responds that paragraph 17 is an accurate recitation of part of the Illinois Freedom of Information Act.

18. Here, Plaintiffs originally submitted their request ("Request") on January 31, 2025, attached hereto as Group Exhibit A.

**ANSWER:** Plano has insufficient information to admit or deny whether or not the FOIA request attached to the Complaint as Exhibit A from the requestor Owen Wang of the Kendall County Times has any relation to the Plaintiffs identified in the Complaint. Answering further, Plano admits that Exhibit A of the Complaint is the FOIA request submitted to Plano on January 31, 2025.

19. The Request sought, *inter alia*:

Names, addresses, and emails of members of all volunteer boards and commissions from last 3 month. Include the start date and end date of the term, if applicable.

The request also advised that the Plaintiffs are members of the media and eligible for a fee waiver. January 31, 2025 E-Mail, attached hereto as Group Exhibit A.

**ANSWER:** Plano admits the allegations in paragraph 19 of the Complaint as an accurate depiction of the FOIA request emailed to Plano on January 31, 2025.

20. Under Illinois' FOIA statute, the Defendant was required to respond or request additional time by or before February 7, 2025.

**ANSWER:** Plano admits the allegation contained in paragraph 20 of the Complaint.

21. Defendant failed to respond to Plaintiffs' Request by or before February 7, 2025.

**ANSWER:** Plano denies the allegation contained in paragraph 21 of the Complaint. Answering further, Plano, by its Administrator and FOIA officer, Martin J. Shanahan Jr., sent an e-mail response to the FOIA requester on February 3, 2025, a copy of which is attached hereto and incorporated in herein as Exhibit A, acknowledging the receipt of the FOIA request on January 31, 2025, but raised issues of whether the FOIA request was a fake and advised of security concerns in responding to the e-mail FOIA request. Plano's email response sought verification of whether the purported FOIA request originated from its company and if Owen Wang worked for the company and asked to provide a more secure e-mail address for Plano's response.

22. On April 15, 2025, Plaintiffs sent an e-mail following up on the Request. April 15, 2025 E-Mail, attached hereto as Group Exhibit A.

**ANSWER:** Plano admits the allegations contained in paragraph 22 of the Complaint. Answering further, the Plaintiff's April 15, 2025 email to Plano fails to acknowledge Plano's email response dated February 3, 2025.

23. Defendant failed to respond to Plaintiffs' Request by or before April 22, 2025 or at any time since.

**ANSWER:** Plano denies the allegation contained in paragraph 23 of the Complaint. Answering further, Plano responded to the Plaintiff's April 15, 2025 email with an e-mail on the same date, namely April 15, 2025, from the Plano Deputy City Clerk, Carin Martin, to the FOIA requester, a copy of which is attached here to and incorporated herein as Exhibit B. Plano's email referenced its initial email response dated February 3, 2025, indicating that the requester did not respond to Plano's initial FOIA e-mail response from February 3, 2025.

24. Defendant failed to respond to either Plaintiffs original FOIA Request or Plaintiffs subsequent follow-up.

**ANSWER:** Plano denies each and every allegation contained in paragraph 24 of the Complaint.

25. On July 15, 2025, one of Plaintiffs Counsel's assistant called Defendant at (630) 552-8275 at approximately 11:40 a.m. Carin Martin answered and identified herself as the FOIA officer. During the call, Carin stated she would forward the email and obtain a reply.

**ANSWER:** Plano has insufficient information to admit or deny if one of Plaintiff's counsel's assistant called Plano on July 15, 2025. Answering further, Plano admits to



receiving a phone message from an individual representing himself as counsel for Owen Wang regarding the FOIA request issued on January 31, 2025.

26. Additionally, Plaintiffs Request was indeed sent to the listed FOIA contact based on then-publicly available information.

**ANSWER:** Plaintiff neither admits nor denies the allegations contained in paragraph 26 of the Complaint. Answering further, Plano admits to receiving the e-mail FOIA request dated January 31, 2025, attached to the Complaint as Exhibit A.

27. Plaintiffs work is to report matters about which the public should be aware. Here, Plaintiffs are being prevented from access to data to which the public has a right, even after reminding Defendant of its obligation under the law.

**ANSWER:** Plano denies each and every allegation contained in paragraph 27 of the Complaint.

28. Under Section 3(d) of FOIA, Defendant was obligated to respond to Plaintiffs' Request, but failed to either produce the demanded documents, actually seek an extension, or issue a written denial as required by FOIA's Section 9(a).

**ANSWER:** Plano admits that its obligations pursuant to the Illinois Freedom of Information Act is to respond to the Plaintiff's request and to produce demanded documents, to seek an extension, or to issue a written denial pursuant to the Illinois Freedom of Information Act, Section 9. While Plano responded to the FOIA requester in emails dated February 3, 2025, and April 15, 2025, Plano admits that the responses were not technically sufficient, in that they failed to produce the demanded documents in writing, did not seek an extension of the time period to respond to the request, nor did

they issue an exact written denial as required by the Illinois Freedom of Information Act, Section 9.

29. Moreover, upon information and belief, Defendant has failed to satisfy its other obligations under FOIA, as articulated in Section 3.5(a).

**ANSWER:** Plaintiff denies the allegations contained in paragraph 29 of the Complaint.

30. Defendant's intentional refusal to satisfy its obligations under FOIA are so egregious that Plaintiff's had to suffer the time and financial burden of hiring a law firm and filing a lawsuit to vindicate their rights under the law.

**ANSWER:** Plano denies the allegations contained in paragraph 30 of the Complaint.

**Count I**

**Failure to Produce Demanded Records**

31. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

**ANSWER:** Plano incorporates the above responses to the above paragraph by reference as if fully set forth and stated herein.

32. Defendant City of Plano is a public body under Section 2(a) of FOIA.

**ANSWER:** Plano admits that it's a public body under the Illinois Freedom of Information Act.

33. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

**ANSWER:** Plano admits the allegations contained in paragraph 33 of the Complaint.

34. FOIA required Defendant to respond to a records request within five (5) days of receipt or request an additional five (5) days to respond.

**ANSWER:** Plano admits the allegations contained in paragraph 34 of the Complaint.

35. Defendant failed to either respond to Plaintiffs' Request or request additional time to respond to the same within the statutorily prescribed time period, in violation of FOIA's Section 3(d).

**ANSWER:** While Plano answers that it responded with an email to the Plaintiff's request, it acknowledges that its response failed to satisfy the obligations of a written response within the statutory prescribed time period, in violation of the Illinois Freedom of Information Act Section 5 ILCS 140/3(d).

36. Defendant violated FOIA when it failed to produce the requested records within the statutory time period or any time thereafter; and otherwise failed to respond to Plaintiffs' Request.

**ANSWER:** While Plano answers that it responded with an email to the Plaintiff's request, it admits that it failed to sufficiently respond in writing to satisfy the Freedom of Information Act with the requested record within the statutory period of time.

WHEREFORE, the City of Plano respectfully requests this Court for the following:

- A. For this Court to find that the City of Plano technically failed to produce the demanded records, request an extension of time or provide a denial of the FOIA request issued by the requester on January 31, 2025;

- B. To provide the City of Plano with a time period set by this Court to produce the requested record;
- C. Based upon Plano's admission to the violation of the Illinois Freedom of Information Act as to the January 31, 2025 request to set a hearing date on the Plaintiff's request for reasonable attorney's fees and costs pursuant to 5 ILCS 140/11(i); and
- D. For other further relief as the Court deems just.

**Count II**  
**Willful and Intentional Violation of FOIA**

37. Plaintiffs incorporate the above paragraphs by reference as if fully set forth herein.

**ANSWER:** Plano incorporates the above responses by reference and its responses thereto, as if fully set forth herein.

38. Defendant City of Plano is a public body under Section 2(a) of FOIA.

**ANSWER:** Plano admits the allegations contained in paragraph 38 of the Complaint.

39. The records requested by Plaintiffs are non-exempt public records and are subject to FOIA's inspection requirements.

**ANSWER:** Plano admits the allegations contained in paragraph 39 of the Complaint.

40. Upon information and belief, Defendant failed to satisfy any of FOIA's attendant requirements, including: (1) noting date the request was received; (2) computing the response deadline; (3) creating and maintaining an electronic or paper record of the request until the request is complied with or denied; or (4) creating a file for the retention of the request, response, and all communications concerning the same, in violation of FOIA's Section 3.5(a).

**ANSWER:** Plano denies each and every allegation contained in paragraph 40 of the Complaint.

41. Defendant City of Plano willfully, intentionally, and in bad faith failed to comply with five (5) separate requirements of FOIA.

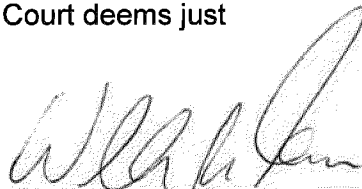
**ANSWER:** Plano denies each and every allegation contained in paragraph 41 of the Complaint.

**Prayer for Relief**

WHEREFORE, City of Plano prays this Court for further relief:

A. For this Court to deny any and all Plaintiffs prayer for reliefs associated with Count II for an alleged Willful and Intentional Violation of the Freedom of Information Act; and

B. For other and further relief as this Court deems just



William R. Thomas  
Attorney for the City of Plano

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2441 Warrenville Rd., Suite 310  
Lisle, IL 60532  
(630) 682-0085  
wthomas@ottosenlaw.com

NOT AN OFFICIAL COPY

## Carin Martin

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**From:** Martin Shanahan  
**Sent:** Monday, February 3, 2025 8:41 AM  
**To:** news@kendallcountytimes.com  
**Cc:** Carin Martin  
**Subject:** Another FOIA-Plano IL

February 3, 2025

To whom it may concern:

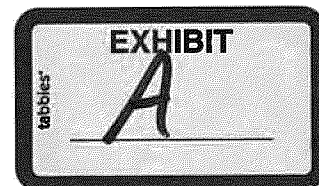
A purported request under the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq., was received by the City of Plano IL via email on : Friday, January 31, 2025 2:39 PM. The request was sent from "Owen Wang, a news reporter from Kendall County Times" [foia@kendallcountytimes.com](mailto:foia@kendallcountytimes.com) and we have received a report that the email address from which it originated is fake which raises security issues. Thus, the City does not wish to reply to this email address. Please verify whether Owen Wang works with your company, whether this request originated from your company and, if so, provide a more secure email address for the City's response. Upon receiving your response to this inquiry, we will provide a further FOIA response within the required timeline, starting from the receipt of your response. If we do not hear from you within 30 days, we will consider your request abandoned.

Sincerely,

-Martin J Shanahan Jr.  
FOIA Officer



Martin J Shanahan Jr.  
Plano City Administrator  
Office 630-552-8275 X3004  
Mobile 630-465-1998  
Email [mshanahan@cityofplanoil.org](mailto:mshanahan@cityofplanoil.org)  
Address 17 E. Main, Plano IL 60545



## Carin Martin

**From:** Carin Martin  
**Sent:** Tuesday, April 15, 2025 4:41 PM  
**To:** foia@kendallcountytimes.com  
**Cc:** Martin Shanahan  
**Subject:** RE: FOIA Request-Volunteer Boards & Commissions

Good afternoon.

Below is the response we sent to you on February 3, 2025, regarding your January 31, 2025 FOIA request. We did not hear from you until this afternoon. Please follow the instructions in our email message below.

Carin Martin  
Deputy City Clerk  
City of Plano  
17 E. Main Street  
Plano, IL 60545  
630-552-8275



February 3, 2025

To whom it may concern:

A purported request under the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq., was received by the City of Plano IL via email on : Friday, January 31, 2025 2:39 PM. The request was sent from "Owen Wang, a news reporter from Kendall County Times" [foia@kendallcountytimes.com](mailto:foia@kendallcountytimes.com) and we have received a report that the email address from which it originated is fake which raises security issues. Thus, the City does not wish to reply to this email address. Please verify whether Owen Wang works with your company, whether this request originated from your company and, if so, provide a more secure email address for the City's response. Upon receiving your response to this inquiry, we will provide a further FOIA response within the required timeline, starting from the receipt of your response. If we do not hear from you within 30 days, we will consider your request abandoned.

Sincerely,

-Martin J Shanahan Jr.  
FOIA Officer



Martin J Shanahan Jr.  
Plano City Administrator  
Office 630-552-8275 X3004  
Mobile 630-465-1998  
Email [mshanahan@cityofplanoil.org](mailto:mshanahan@cityofplanoil.org)  
Address 17 E. Main, Plano IL 60545

