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July 5, 2022

Via Email Correspondence: vincent.hyman@cityofsouthfultonga.gov

Vincent C. Hyman, Esquire
City of South Fulton Attorney
5440 Fulton Industrial Blvd.
South Fulton, Georgia 30336

RE: *Open Government Complaint from Mr. Jason Levy regarding the
City of South Fulton*

Dear Mr. Hyman:

I am writing regarding a complaint our office received from Mr. Jason Levy about Open Records requests he submitted to the City of South Fulton ("city"). On May 27, 2022, Mr. Levy requested "[a]ll emails from Helen Willis to the City Manager over the most recent 60 days that involve or include conversations about Nicki Graham[;]" "[a]ll emails from Helen Willis to the City Manager over the most recent 60 days that involve or include conversations with Keith Meadows[;]" and "[a]ll emailed [sic] from Helen Willis to the City Manager over the most recent 60 days from any employee or department where Helen Willis issued (or was accused of) any type of threat regarding any staff members current or future employment." The city responded with a cost estimate for fulfilling the request, along with a list of five possible exemptions to be relied upon. According to Mr. Levy, upon payment and receipt of the records, he found that the records were heavily redacted. Mr. Levy states that the city failed to inform him of the extent the records would be redacted.

On June 15, 2022, Mr. Levy submitted a request for the "April 2022, May 2022, June 2022 Purchase Card Statements for the following individuals: Catherine Rowell[,] Carmalitha Gumbs[,] Helen Willis[,] Jayceey Sebastian[,] Corey Reeves[,] Natasha Williams[, and] Khalid Kamau." The city subsequently provided Mr. Levy with a cost estimate totaling \$686.80, comprising 14.25 hours of "finance department staff time" "to provide responsive records" and 2.75 hours for "legal review[.]"

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On June 17, 2022, Mr. Levy requested the “January 2022, March 2022, April 2022 Purchase Card Statements for the following individuals: Catherine Rowell[,] Carmalitha Gumbs[,] Helen Willis[,] Jayceey Sebastian[,] Corey Reeves[,] Natasha Williams[, and] Khalid Kamau.” The city provided Mr. Levy with a cost estimate totaling \$707.95, including 14.75 hours of “finance department staff time” “to provide responsive records” and 2.75 hours for “legal review[.]” Also on June 17, Mr. Levy submitted a request for the “April 2022, May 2022, June 2022 Purchase Card Statements for the following individuals: Catherine Rowell[,] Carmalitha Gumbs[,] Helen Willis[,] Jayceey Sebastian[,] Corey Reeves[,] Natasha Williams[, and] Khalid Kamau.” The city gave Mr. Levy a cost estimate of \$707.95, including 14.75 hours of “finance department staff time” “to provide responsive records” and 2.75 hours for “legal review[.]”¹

Mr. Levy states that he followed up with the city about the excessiveness of the cost estimate and was told that “[t]he time estimate is for the time needed to review and redact the documents” and that “the main information that must be redacted is City and individual account numbers.” However, Mr. Levy provided our office with email correspondence between him and the Mayor, wherein the Mayor purportedly stated that Mr. Levy had “been lied to about the hours it would take to generate P-Card statements” and that “[t]he ‘work’ of compiling this data — which only requires pressing a few buttons on a computer or scanning on a copy machine in paper credit statements we receive by mail — was already done 6 weeks ago.” I have attached a copy of Mr. Levy’s original complaint filed with our office.

Under Georgia law, the Attorney General, as an independent constitutional officer, has the discretionary authority to enforce the Open Records Act and the Open Meetings Act. O.C.G.A. §§ 50-14-5(a) and 50-18-73(a). The Attorney General has chosen to exercise that discretion by establishing a mediation program where citizens may raise issues and concerns with us regarding the Acts, and we will attempt to resolve disputes between citizens and local government. This office also reserves the right to pursue litigation in these matters where it deems doing so is appropriate.

In the event a city is required to or has decided to withhold all or part of a record, it must provide the requestor with the specific legal authority exempting the record from disclosure within three days. O.C.G.A. § 50-18-71(d). O.C.G.A. § 50-18-72, which sets forth the list of exemptions, expressly states that “[t]his Code section shall be interpreted narrowly so as to exclude from disclosure only that portion of a public record to which an exclusion is directly applicable” and that “[i]t shall be the duty of the agency having custody of a record to provide all other portions of a record for public inspection or copying.” *See*, O.C.G.A. § 50-18-72(b). While the city here

¹ Mr. Levy did advise our office that the dates were corrected so as to avoid duplication; however, we were unable to open the documentation provided regarding the same.

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did provide a general list of possible exemptions, it is unclear which specific ones were actually relied upon and if the records custodian provided access to the properly remaining portions.

Additionally, I ask the city to provide Mr. Levy with a more specific explanation of the cost estimates, particularly in light of the information Mr. Levy allegedly received from the Mayor. Doing so will allow Mr. Levy to determine if he can modify his request to lower the cost, which would also reduce the amount of time that the city's staff would need to spend on responding to his request. Please be reminded that attorney review and billing for reviewing an Open Records request should only occur if the attorney is the only possible individual who can review and redact records; this does not appear to be the case here.

Nevertheless, I am not aware of all of the circumstances surrounding Mr. Levy's requests, and I am not assuming the city violated the law. I ask that the city provide our office with a response to the allegations and aforementioned cost estimate within the next ten business days, as outlined above.

Thank you for your attention to this matter.

Sincerely,

/s/Kristen Settlemire

KRISTEN SETTLEMIRE
Assistant Attorney General

cc: Mr. Jason Levy (via email correspondence)