

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

CHICAGO JUSTICE PROJECT,)	
)	
)	18 CH 6576
Plaintiff,)	
)	Hon. Caroline Kate Moreland
v.)	Calendar 10
)	
CHICAGO POLICE DEPT.,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Plaintiff, Chicago Justice Project (“CJP”), filed a motion to reconsider Count III of the Court’s ruling from March 16, 2020, pursuant to 735 ILCS 5/2-1203(a).

I. Background

This matter stems from CJP’s multiple Freedom of Information Act (“FOIA”) requests to Defendant, Chicago Police Department (“CPD”). Particularly, Count III, which pertains to CJP’s request for a comprehensive staffing analysis report. Parties filed cross-motions for summary judgment. On March 16, 2020, the Court granted Count III of CPD’s motion for summary judgment and denied Count III of CJP’s motion for summary judgment. Subsequently, CJP filed a motion to reconsider the Court’s ruling regarding Count III.

II. Motions to Reconsider

“The purpose of a motion to reconsider is to bring to a court’s attention (1) newly discovered evidence, (2) changes to the law, and (3) errors in the court’s previous application of existing law.” *Jones v. Live Nation Entm’t, Inc.*, 2016 IL App (1st) 152923, ¶ 29. “Legal theories and factual arguments not previously made are waived.” *Id.*

III. Arguments

CJP argues that the Court misapplied the law because the Court failed to find that CPD conducted an adequate search for comprehensive staffing analysis. Pl’s Mot. to Reconsider, ¶¶ 6-8. CJP argues that the Court’s ruling that the Bromwich Report did not contain comprehensive staffing analysis does not negate CPD’s burden to show that comprehensive staffing information could have been elsewhere in other documents. *Id.*

CPD argues that it did conduct an adequate search for records pertaining to a comprehensive staffing report. Def's Response, p. 2. CPD argues that it did not deny the existence of records regarding a comprehensive staffing report because CPD did not know if such records existed, but provided the Bromwich Report because if such records existed, they would be contained within the Bromwich report. *Id.* Therefore, CPD argues that it provided all responsive documents regarding Count III, and the Court's finding that there were no responsive records within the Bromwich Report confirms that CPD did conduct an adequate search for records pertaining to a comprehensive staffing report. *Id.* CPD also attaches three affidavits to its response to show that a complete search for records regarding a comprehensive staffing analysis was done. *Id.*, Ex. 1-3.

IV. Analysis

Count III pertains to a September 26, 2017 FOIA request regarding a comprehensive staffing report. In ruling on the parties cross-motions for summary judgment the Court had two issues to address (1) whether the Bromwich report contained the comprehensive staffing analysis and, if so, would the comprehensive staffing analysis fall within an exemption under attorney-client privilege and (2) did CPD adequately search to determine if the comprehensive staffing analysis was in other records. On March 16, 2020, the Court ruled that the Bromwich Report did not contain any comprehensive staffing analysis; therefore, there was no non-exempt information within the Bromwich Report. The Court then granted Count III of CPD's motion for summary judgment. The Court failed to rule whether CPD completed an adequate search for the comprehensive staffing analysis.

In order to obtain summary judgment on claimed FOIA exemption under Section 7, a public body is required to demonstrate, through affidavits or an *in camera* review, that their searches were adequate and that the documents they located fall within the claimed category of statutorily exempt documents. *Ill. Educ. Ass'n. v. Ill. State Bd. of Educ.*, 204 Ill. 2d 456, 469-470 (2003). Upon review, CPD failed to meet its burden that an adequate search was conducted for a comprehensive staffing analysis. CPD did not provide affidavits describing how its search was conducted.¹ Although the Court completed an *in camera* review of the Bromwich Report, CPD did not provide an affidavit stating that the Bromwich report was the only responsive document to the September 26, 2017 FOIA request. Additionally, the Court reviewed the Bromwich Report regarding its contents, but not in the context of whether or not the Bromwich Report was sufficient to meet CPD's burden of performing an adequate search.

¹ As a note, on a motion to reconsider, the Court cannot consider new factual arguments, such as the affidavits submitted in CPD's response. *See* Pl's Response, Ex. 1-3.

Therefore, regarding Count III, the Court reverses its March 16, 2020 ruling because CPD failed to meet its burden to show it conducted an adequate search regarding a comprehensive staffing report.

V. Conclusion

Count III of CPD's motion for summary judgment is granted in part, regarding the Court's finding that there was no non-exempt information in the Bromwich Report, and denied in part, regarding CPD's failure to meet its burden to show an adequate search was performed for the requested records. Count III of CJP's motion for summary judgment is granted.

The ruling date of December 4, 2020 at 10 AM is stricken and converted to a status on December 4, 2020 at 10:30 AM.

Entered: 

Judge Caroline Kate Moreland 2033

Judge Caroline Kate Moreland

OCT 09 2020

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