



GEORGIA DEPARTMENT OF LAW

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December 31, 2020

Via Email Correspondence: mike.ludwiczak@gwinnettcounty.com

Michael Ludwiczak, Esquire
Gwinnett County Justice and Administration Center
Room 3W700 West Wing
75 Langley Drive
Lawrenceville, Georgia 30046

RE: *Open Records Act Complaint from Mr. David Hancock regarding
Gwinnett County*

Dear Mr. Ludwiczak:

I am writing regarding a complaint our office received from Mr. David Hancock about an Open Records request he submitted to Gwinnett County.

On November 6, 2020, Mr. Hancock requested "to view or obtain copies of the video that was recorded at each Voter Absentee Dropbox in Gwinnett County during the time that those boxes were receiving ballots" for the November 3, 2020, election. After receiving no response, Mr. Hancock resubmitted his request on November 14, 2020, and November 15, 2020. According to Mr. Hancock, he subsequently received two differing responses from the county – one stating that the video footage was available and that a cost estimate would be provided and a second indicating that his request had been received and was being processed. Mr. Hancock states that on November 25, 2020, he received two additional responses from the county, indicating that additional time was needed to process his request and that the records would be available on or after December 11, 2020. On December 15, 2020, the county sent Mr. Hancock a further response, advising that it was "working [with] the vendor to obtain the data on a medium that is compatible for the large size [and that] [a]s soon as it's available for pick up you will be notified and it anticipated that will be within the next few days." Mr. Hancock states that to date, he still has not received the requested video footage or been provided with a cost estimate for same. I have attached a copy of Mr. Hancock's complaint for your review.

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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.

The Open Records Act (“Act”) requires a county to respond to a records request within three business days. O.C.G.A. § 50-18-71(b)(1)(A). Within those three days, the county should either make the records available to the requester or provide a description of the records and a timeline for their production, with access to the records to be granted “as soon as practicable.” O.C.G.A. § 50-18-71(b)(1)(A). Where the county will seek costs in excess of \$25.00 to respond to a request, the county “shall notify the requester within a reasonable amount of time not to exceed three business days and inform the requester of the estimate of the costs.” O.C.G.A. § 50-18-71(d). The Act further provides that “if an agency contracts with a private vendor to collect or maintain public records, the agency shall ensure that the arrangement does not limit public access to those records and that the vendor does not impede public record access and method of delivery” O.C.G.A. § 50-18-71(h).

Of course, I am not aware of all of the circumstances surrounding Mr. Hancock’s request, and I am not assuming the county violated the law. I ask that the county provide a response to the allegations within the next ten business days. Thank you for your attention to this matter.

Sincerely,

/s/Kristen Settlemire

KRISTEN SETTLEMIRE
Assistant Attorney General

cc: Mr. David Hancock (via email correspondence)