

EVERYDAY DEMOCRACY

CITIZEN ADVOCACY CENTER'S NEWSLETTER, FALL 2005

Safeguarding the Integrity of Elections in DuPage County



Are ballots cast in Illinois elections public documents accessible under the Freedom of Information Act? (FOIA) This is the question that a DuPage County judge will answer.

After suspecting irregularities in the April 2005 Glendale Heights municipal election, Mr. Scott Kibort filed a FOIA request with the DuPage County Election Commission (Commission) to inspect a variety of election materials that included absentee ballots, ballots, poll signature cards, and ballot box tapes. The Commission denied the request and stated that ballots, ballot box tapes, and poll signature cards are exempt public documents because the Illinois Election Code does not provide for public disclosure of the requested materials. The Commission argued that outside of a ballot recount or court challenge, no one may inspect ballots. The Center is representing Mr. Kibort in his effort to hold the Commission accountable and to safeguard the public's right to inspect ballots.

The complaint filed against the DuPage County Election Commission can be viewed at www.citizenadvocacycenter.org

Safeguarding the public's access to the ballot is essential to ensuring the integrity of the election process and in upholding an open and transparent government. Moreover, questioning the integrity of elections is an important issue of public concern. Ballots are the quintessential symbol of democracy and it is necessary for the public to have the capability to inspect them, and other election materials, as a means of checks and balances. This check is especially true considering the elections in Florida and Ohio. Moreover, in Chicago alone, more votes were lost in the 2000 Presidential election than in the entire state of Florida.

The Center's FOIA case has garnered statewide attention because it is a case of first impression in Illinois. In addition, the Center is not alone in finding the Commission's denial of Mr. Kibort's request outrageous. The Illinois Press Association has cited the Commission's FOIA denial as number five on their "2005 Top 10 List of Worst FOIA violations."

All Roads Lead to Local Government

Law school was not at all what I expected. After my first year, I was disenchanted but quitting was not an option. International relations was always my passion, and that led me to enroll almost exclusively in international law classes. I viewed studying international law as somehow giving me the tools to make a difference in the world.

To gain real world legal experience, I decided to do an externship to satisfy my last three credits for law school. I knew I wanted to be exposed to a variety of issues and be able to make a significant contribution to the communities I would be serving. The Center was the logical choice.

In my semester at the Center, I have helped citizens with a multiple issues ranging from Open Meetings Act violations to advisory referendums to annexations of unincorporated areas. I also hosted two brown bag lunches: one on how the Supreme Court impacts the lives of citizens, and one on animal law. Hosting and facilitating these community forums were challenging but fun.

I also had an opportunity that few lawyers, and even fewer law students, have: working on a case of first impression. Working on the Center's case concerning the denial of a Freedom of Information Act request by the DuPage County Election Commission to view election materials, such as ballots, has been a valuable experience.

While at the Center I have also answered over a dozen intake calls from concerned citizens. One of the most interesting questions I dealt with was helping a citizen determine what happens when a municipality goes bankrupt. The answer was that the municipality would have to engage in bankruptcy proceedings under Chapter 9 of the Federal Bankruptcy Code.

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Citizens Making A Difference

All these communities share characteristics that make them targets for developers: they are land locked, they are desirable places to live, and their property values are high enough to bear the million dollar plus price tag placed on many of these new homes. In addition, many of them have municipal governments that are struggling, or reluctant, to address infill development issues.

The CSA is a network for information and personal contacts. The group meets at least quarterly, discusses common issues, and learns what has been proposed in other communities to help manage infill development. Political strategies, zoning ordinances, flooding control, landmark preservation, community surveys and downtown commercial redevelopment have also been discussed.

Visit the CSA listserv, at <http://groups.yahoo.com/group/chicagolandcitizens/>, to join the discussions and to share documents. The next meeting will be held in Hinsdale in February 2006. Future plans may include collaborative educational forums and having experts discuss architectural design, real estate marketing, flooding and other areas that need to be explored and understood. For more information, contact: Genell Scheurell at genell_scheurell@nthp.org; 312-939-5547, Ext. 223, or Paula Pezza at paulapezza@aol.com.

Infill development and teardown issues have become forefront concerns in Chicago metropolitan suburban communities. In response, numerous grassroots citizen groups have organized and held educational forums and panels. Moreover, municipal governments are grappling with the question of how to manage infill and teardown developments.

Representatives from citizens groups across Chicagoland have formed the Chicago Suburban Alliance. (CSA) CSA organized in August 2003 and includes 17 suburban groups. Current communities include Glen Ellyn, Elmhurst, Batavia, Wheaton, Kenilworth, Oak Park, Downers Grove, Hinsdale, Forest Park, Winfield, Naperville, Lake Forest, Winnetka, Glencoe, Riverside, Arlington Heights and Park Ridge.

Democracy Watch

The Center receives more than 250 calls a year from members of the public asking questions of public concern. Below are sample questions.

If a public body forms a task force that has some public officials on it, but not enough to be a majority of a quorum, does that task force have to comply with the Open Meetings Act?

Yes, the task force is a subsidiary public body and must comply with the Open Meetings Act. The issue is not whether or not a majority of a quorum of public officials are on the new task force, but rather whether or not the task force was created by a public body, can operate independently of the public body, and is responsible to a primarily public body. If the answers are yes, it is a public body.

Hopf v. Topcorp, Inc. 628 N.E.2nd 311 (ILL. App. 1 Dist. 1993)

Can public bodies sanction public officials who disclose issues of information discussed during executive sessions?

No, a public body cannot sanction a member for disclosing issues or information discussed in a closed meeting. 1991 *Il. AttyGen Opinion 1*. Moreover, a court has held that "there is nothing in the [Open Meetings] Act that provides a cause of action against a public body for disclosing information in a closed meeting. *Swanson v. Board of Police Commissioners, 197 Ill. App. 3d 592, 609 (Second District 1990)*

Can a government body prohibit a person from using a digital camera or portable scanner to copy documents requested under Freedom of Information Act? (FOIA)

While there is no law on the issue, it is the Center's opinion that a public body cannot prohibit a person from making his or her own copies. The FOIA allows the public to inspect copies free of charge and only charge fees reasonably calculated to reimburse the public body for actual costs. For hand-held digital cameras and scanners, there are no actual costs to the public body.

Liberty &
Justice
for All

The Health Care Justice Act

3.5 million people in Illinois had no health insurance at some point during 2003-2004, and premiums paid by workers have risen 35% since 2000. A critical need for healthcare reform exists. However, health care for all

will only be achieved by a strong, broad, politically-savvy coalition that is capable of advocating for the rights of all Illinoisans.

The Campaign for Better Health Care is Illinois' largest grassroots advocacy organization for health care consumers, launched the Health Care Justice Campaign (HCJC) in 2002. The HCJC has succeeded in bringing a broad coalition of groups and individuals to the table, with the purpose of achieving health care for all in Illinois. Currently, more than 125 diverse organizations have endorsed the HCJC.

In 2004, the HCJC led the way in passing the Health Care Justice Act (HB 2268) through the Illinois General Assembly, along with the bill's chief sponsors, then State Senator Barack Obama and State Representative William Delgado. The Act implements a process to assess options for achieving affordable and accessible health care in Illinois. The bill instructs the Illinois General Assembly to enact a health care access plan by December 31, 2006 with implementation to begin by July 2007. Key components of the Act include the establishment of the Adequate Health Care Task Force that will gather information and recommend a health care access plan(s) for Illinois. Now is the time that we must work together to ensure that practical solutions to the healthcare crisis are implemented so that every person in Illinois has access to quality, affordable health care.

In accordance with the Health Care Justice Act, the General Assembly is currently holding public hearings throughout Illinois to gain input from citizens about what they view as necessary healthcare reforms. The public hearing for the 6th Congressional District is scheduled for Wednesday, January 11th from 4:00-7:00pm in Elk Grove Village.

Please visit the Health Care Justice Campaign at www.cbhconline.org/HCJC or contact Megan Meagher at 312-913-9449 for information about how you can share your story, volunteer at a hearing, or obtain more information about HCJC.

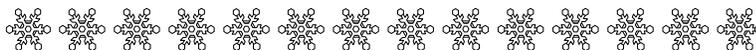
All Roads Lead to Local Government continued..

While the complexity of researching this issue and others was interesting, the most valuable experience was exploring areas of law I never learned about in any law school class.

Not until my Center externship did I realize where the most effective tools for making a difference can be found: AT THE LOCAL LEVEL.

Through my work at the Center I have come to appreciate not just how important, but how effective, the citizen can be at the local level. Change rarely comes from the top down, but usually from the bottom up. All this time I had been focusing my energy on amassing the tools to effect change globally, but really the tools to effect change had been at my disposal all along. The key to effecting change is to empower the citizen and that is exactly what the Center does everyday.

*Ms. Casey Fry
3L, Michigan State University Law School*



Remember the Center During the Holiday Season

Contributing to CAC is a great way to help us continue to serve the community. Please consider becoming a volunteer or making a financial contribution. Listed below are other easy ways to help the Center:

The Center is in need of:

- Computers & Windows Software
- Westlaw Online Legal Research Package
- A Website
- volunteer
- Digital Camera
- Postage Meter
- Photo Albums
- Election Law Guides
- Illinois School Law and Municipal Law and Practice Guides
- Civic Activism Books



Everyday Democracy is a publication of the **Citizen Advocacy Center**, a non-profit, nonpartisan, 501(c)(3) corporation. Submissions from citizen advocates in the western suburbs of Chicago are encouraged. The *Center* is an educational and charitable organization dedicated to building democracy for the 21st century by strengthening the public's capacities, resources, and institutions for self-governance.

If you are interested in more information, becoming a volunteer, or making a tax-deductible contribution, please feel free to contact or visit us.

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Building More Democratic Communities

The Center set out on a mission more than eleven years ago to help build our democracy by strengthening the public's capacities, resources and institutions for self-governance. In that time, the Center's dedicated staff, interns and volunteers have helped thousands of local residents gain a voice in the democratic process. As the Center prepares for a new year, thank you to everyone who helped make 2005 outstanding. Below are just a few of this year's accomplishments:

- Filing landmark litigation against the DuPage County Election Commission to ensure public disclosure of ballots;
- Augmenting our civic lesson plan library to 45 original, hands-on civic lesson plans;
- Visiting with more than 2,500 youth to empower students to have an impact in their community;
- Mentoring five law students, one college student, and seven high school interns;
- Answering more than 250 questions on matters of public concern from the public;
- Assisting the Regional Office of Education in DuPage County to organize a Civic Education Summit for high school teachers, youth, and the community to be held in the Spring of 2006;
- Holding three democracy workshops that educated dozens of people in how to community organize and use public access laws; and
- Holding 16 Brown Bag Lunches and Evening Programs on current community issues. Topics included:
 - School Funding & Referendums: Are Schools Limiting Themselves to What Has Been Approved by Voters?
 - How the Supreme Court's Ruling on Eminent Domain impacts citizen in Illinois
 - Running for Local Elections: The Good, The Bad, & The Ugly
 - Social Security Reform