

STATE OF OHIO )  
 ) SS.  
COUNTY OF LAKE )

IN THE COURT OF APPEALS  
ELEVENTH DISTRICT

STATE OF OHIO ex rel.  
BRIAN M. AMES,

JUDGMENT ENTRY

Relator,

CASE NO. 2024-L-017

- VS -

AUBURN VOCATIONAL SCHOOL  
DISTRICT BOARD OF EDUCATION,

Respondent.

On May 6, 2024, Relator, Brian Ames, filed an amended petition for a writ of mandamus seeking relief regarding public records requests he made to Respondent, Auburn Vocational School District Board of Education (“the Board”). On May 14, 2024, the Board moved to dismiss for failure to state a claim upon which relief can be granted, pursuant to Civ.R. 12(B)(6). On May 20, 2024, Mr. Ames responded in opposition to Respondent’s motion. On June 3, 2024, the Board replied to Mr. Ames’ opposition.

For the following reasons, the Board’s motion to dismiss is overruled.

In the Board’s motion to dismiss, it asserts that we should dismiss this case because the Board has fully complied with Mr. Ames’ public records requests.

A Civ.R. 12(B)(6) motion tests the sufficiency of the complaint, and dismissal is appropriate where the complaint “fail[s] to state a claim upon which relief can be granted.” When considering a motion to dismiss pursuant to Civ.R. 12(B)(6), the court must presume that all factual allegations of the complaint are true and make

all reasonable inferences in favor of the non-moving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988). Before the court may dismiss the complaint, it must appear beyond doubt that the plaintiff can prove no set of facts entitling the plaintiff to recovery. *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753 (1975), syllabus. In determining whether or not to grant a motion pursuant to Civ.R. 12(B)(6), the court cannot rely on evidence or allegations outside of the complaint. *State ex rel. Fuqua v. Alexander*, 79 Ohio St.3d 206, 207, 680 N.E.2d 985 (1997).

Relator alleges that the requests at issue here are for: (1) the rules for notifications of meetings held in 2023 and 2024 by the Board; the finance committee; the facilities committee; the curriculum, enrollment and retention committee; the personnel committee; and the property tax committee; and (2) the notices of special meetings held in 2023 and 2024 by the Board; the finance committee; the facilities committee; the curriculum, enrollment and retention committee; the personnel committee; and the property tax committee.

The Board replied to Mr. Ames' request via email. The email contained a hyperlink to its rules for notifications of meetings held by the Board. The email also contained a copy of the notice for the only special meeting of the committees mentioned in the request held between 2023 and 2024. In its email, the Board also notified Mr. Ames that it "does not have the following committees: the finance committee; the facilities committee; the curriculum, enrollment, and retention committee; the personnel committee; and the property tax committee as those are

administrative committees only.” Therefore, Respondent asserts they did not have any documents to produce in reference to those committees.

In Mr. Ames’ petition, he alleges that the Board has failed to fully comply with his requests. Specifically, he pleads that “[n]o documents responsive to request item 1 were attached to the Response” because the requester has “no duty \* \* \* to scour a website searching for the requested records.” In reference to his second request, Mr. Ames contends that “no documents responsive to request item 2 in respect to the finance committee; the facilities committee; the curriculum, enrollment, and retention committee; the personnel committee; and the property tax committee were attached to the Response.”

In the present case, no outside evidence, other than the Exhibits attached to Mr. Ames’ complaint displaying the Board’s responses to his requests, has been presented to us. In its motion to dismiss, the Board argues that it complied with Mr. Ames’ first request by emailing him a link to the website with the rules he requested. It is legally correct that emailing a link to the requested documents can satisfy transmitting a public record pursuant to R.C. 149.43(B)(7)(a). *State ex rel. Mun. Constr. Equip. Operators’ Lab. Council v. Cleveland*, 2020-Ohio-3197, ¶ 11. But, it may not. The Board would have us accept that sending the link satisfied its duty under R.C. 149.43(B)(1) without substantiation. That statute provides: “Upon request by any person \* \* \* all public records responsive to the request shall be promptly prepared and made available for inspection to the requester.” Mr. Ames alleges in his petition that the Board’s response did not satisfy its obligation under

R.C. 149.43(B)(1). Nothing in Respondents' motion establishes that Relator's allegations cannot be proven.

Drawing all reasonable inferences in favor of the non-moving party and assuming all factual allegations in the complaint are true, it is not beyond doubt that Relator could not prove them to be true.

The Board's motion to dismiss is hereby overruled.

  
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JUDGE JOHN J. EKLUND

EUGENE A. LUCCI, P.J.,

ROBERT J. PATTON, J.,

concur.