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AFFIRMED
DECEMBER 5, 2019

This is a mandamus action seeking to obtain documents and maps pursuant to the Louisiana Public Records Law, La. R.S. 44:1, *et. seq.*¹ Appellee, Laura Bixby (“Ms. Bixby”), filed a Petition for Writ of Mandamus naming as defendant, Appellant, Collin Arnold (“Mr. Arnold”), in his official capacity as custodian of records for New Orleans Department of Homeland Security and Emergency Preparedness (“NOHSEP”), seeking any map or maps which the City of New Orleans (the “City”) maintains showing the locations of four hundred (400) publicly visible crime cameras, any policies governing the records keeping of the locations of the cameras, and records or policies regarding the staff employed by the Real Time Crime Center (“RTCC”). Additionally, Ms. Bixby sought attorney’s fees and costs. The trial court granted Ms. Bixby’s request for a writ of mandamus and ordered the release of the requested maps. Ms. Bixby, the prevailing party, was awarded, by the trial court, attorney’s fees and reasonable costs as required by the Public Records Law. For the following reasons, we affirm.

¹ See La. R.S. 44:1.1 (noting that the short title of this Chapter is the “Public Records Law”).

FACTS AND PROCEDURAL HISTORY

On August 9, 2018, Ms. Bixby, a resident of New Orleans and a staff attorney for the Orleans Public Defenders, made a formal public records request to NOHSEP requesting production of the following records:

- (1) Any maps or maps which the City maintains showing the location of all PUBLICLY VISIBLE (in other words, red and blue lights and the NOPD logo) real time crime cameras, not including traffic/red light/school zone cameras, at the present date;
- (2) Any policies governing the keeping of records of locations of such cameras of past dates; and
- (3) Records or policies regarding the number and type of staff employed at the Real Time Crime Center.

On August 14, 2018, the New Orleans City Attorney's Office (the "City Attorney's Office") responded on behalf of Mr. Arnold and NOHSEP. The City Attorney's Office denied Ms. Bixby's first and second requests. However, it provided records responsive to her third request. In denying Ms. Bixby's first request, the City Attorney's Office responded as follows:

Records responsive to your first request regarding the location of the City's crime cameras are exempt from disclosure under the Public Records Law because they are records regarding investigative technical equipment and physical security information created in the prevention of terrorist-related activity.

The City Attorney's Office cited La. R.S. 44:3(A)(3) as the statutory basis for the claimed exemption.

As to the denial of Ms. Bixby's second request, the City Attorney's Office responded that:

including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, **are “public records”**, except as otherwise provided in this Chapter or the Constitution of Louisiana.

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4/5/17), 220 So.3d 6, 10). “However, questions of law, such as the proper

Issues Number 1 and 2 - La. R.S. 44:3(A)(3) Exemption of Records of Investigative Agencies

Now, we address the central issues of Mr. Arnold's argument. He argues that NOHSEP is an intelligence agency pursuant to La. R.S. 44:3(A) and that the map or maps are exempt from disclosure pursuant to La. R.S. 44:3(A)(3).

La. R.S. 44:3(A) provides that:

Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, **intelligence agencies**, Council on Peace Officer Standards and Training, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, or publicly owned water districts of the state...

(Emphasis added).

Not all records of the entities enumerated in La. R.S. 44:3(A) are exempt. Only the records containing specific information, as defined in La. R.S. 44:3(A)(3), are exempt.

La. R.S. 44:3(A)(3) provides that:

Records containing security procedures, investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments collected or obtained in the prevention of terrorist-related activity, including but not limited to

maps contain the type of information exempt from disclosure pursuant to La. R.S. 44:3(A)(3).

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La. R.S. 29:729 addresses the duties and functions of NOHSEP. Specifically, La. R.S. 29:729(A) provides that “[t]he parish office of homeland security and emergency preparedness...shall be responsible for homeland security and emergency preparedness in the parish...” La. R.S. 29:729 does not establish

Additionally, Mr. Arnold contends that RTCC, which NOHSEP operates, is

“That a writ of mandamus is the proper procedural means by which to require a public officer to produce public records (unless an exception applies) is evident both from the Public Records Law and case law.” *Hatcher v. Rouse*, 2016

In response to the fifth requirement, Mr. Arnold invokes two arguments. First, he argues that the production of the maps is unduly burdensome and overly broad. Ms. Bixby's request is limited to the location of all publicly-visible real time cameras. The record shows that there are four hundred

an intelligence agency as defined by La. R.S. 44:3(A). The trial court also determined that the requested map or maps were public records and ordered the production of the map or maps. Similarly, we find that NOHSEP is not an intelligence agency as defined by La. R.S. 44:3(A), nor does NOHSEP have the right to assert the exemption, pursuant to La. R.S. 44:3(A)(3) because the map or maps are public records. As such, Mr. Arnold has failed to respond to Ms. Bixby's request. Thus, the sixth requirement is satisfied. All requirements are met to invoke the mandamus remedy under the Public Records Law.

Issue Number 4- Granting of Attorney's Fees and Costs

Lastly, Mr. Arnold argues that the trial court erred in awarding Ms. Bixby

DECREE

For the foregoing reasons, we affirm the trial court's judgment of May 3, 2019, granting Ms. Bixby's writ of mandamus, ordering Mr. Arnold to produce the maps requested, and awarding Ms. Bixby attorney's fees and costs.

AFFIRMED