Illinois Official Reports

Appellate Court

Martinez v. City of Springfield, 2022 IL App (4th) 210290

Appellate Court Caption	FREDDY MARTINEZ, Plaintiff-Appellant, v. THE CITY OF SPRINGFIELD and SPRINGFIELD POLICE DEPARTMENT, Defendants-Appellees.
District & No.	Fourth District No. 4-21-0290
Filed	July 14, 2022
Decision Under Review	Appeal from the Circuit Court of Sangamon County, No. 2020-CH-99; the Hon. Adam Giganti, Judge, presiding.
Judgment	Reversed and remanded.
Counsel on Appeal	Matthew Topic, Josh Loevy, Joshua Burday, Merrick Wayne, and Shelley Geiszler, of Loevy & Loevy, of Chicago, for appellant. James Zerkle, Corporation Counsel, of Springfield (Kateah M. McMasters, Assistant Corporation Counsel, of counsel), for appellees.
Panel	PRESIDING JUSTICE KNECHT delivered the judgment of the court, with opinion. Justices Turner and Harris concurred in the judgment and opinion.

OPINION

¶ 1 In April 2020, plaintiff, Freddy Martinez, filed a complaint against defendants, City of Springfield and Springfield Police Department (collectively, Springfield), asserting a violation of the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2020)). Plaintiff sought a declaration Springfield violated FOIA, an order mandating Springfield produce the requested documents, attorney fees, and civil penalties.

¶ 2 Springfield subsequently provided records to plaintiff's satisfaction and moved for summary judgment on the complaint. The trial court found Springfield acted reasonably and granted the motion. Plaintiff appealed, arguing the trial court erred by (1) ruling on the propriety of Springfield's search and production of records when that issue became moot after Springfield produced the documents and (2) by denying him attorney fees. We agree with plaintiff on the second issue and reverse.

¶ 3 I. BACKGROUND

¶ 4 On January 21, 2020, plaintiff submitted a FOIA request to Springfield seeking records related to "Clearview AI":

> "[(1):] Any invoices with Clearview AI, procurement contracts or other payment between Springfield IL and Clearview. I further request all discussion about the purposes of purchasing, testing or evaluating Clearview.
>
> [(2):] All discussion between April Smiddy and any other police officers with the keyword 'Clearview.' I have identified at least one email to search but *do not limit your search to just that email*. Please search all other emails, inboxes, documents, police reports and other similar locations where records may be reasonably located.
>
> [(3):] Documents sufficient to show any investigations where Clearview may have been used to identify a suspect or a lead."

¶ 5 Approximately two weeks later, on February 5, 2020, Springfield responded to plaintiff's FOIA request. Springfield sent an e-mail stating, "The documents that you requested for this FOIA request are attached." The attached document was likely the February 4, 2020, letter from defense counsel to plaintiff that reveals no documents were produced. Regarding plaintiff's first request for documents, defense counsel reported Springfield "possesse[d] no responsive documentation." As to the second request, defense counsel stated plaintiff's request was unduly burdensome under section 3(g) of FOIA (*id.* § 3(g)). In support of the response, defense counsel informed plaintiff an e-mail search for the term "Clearview" resulted in over 1000 e-mails and many of those e-mails were unrelated to Clearview AI. Counsel further maintained the third request was "vague and ambiguous" and Springfield was unable to determine what records plaintiff wanted.

¶ 6 Plaintiff responded to the e-mail later the same day. Plaintiff wrote to the "FOIA officer," stating FOIA required Springfield "meet and confer with" him before invoking the unduly burdensome exception. Plaintiff requested Springfield perform "another search for records and [provide] the communications between Smiddy and any email address" within a specified domain. Plaintiff concluded such "should be sufficient to satisfy my initial request and narrow the search to a more manageable format."

¶ 7 Beginning February 12, 2020, plaintiff sent two additional e-mails to the FOIA officer regarding his FOIA request. In the first e-mail, plaintiff asked the FOIA officer to confirm the office was performing an additional search for records. On February 19, 2020, plaintiff again inquired whether the office was going to perform an additional search and plaintiff reiterated his belief Springfield mistakenly treated his request as unduly burdensome under the law. On February 21, 2020, Springfield produced one record pertaining to Part 2 of his original request.

¶ 8 On April 24, 2020, plaintiff filed his three-count complaint against Springfield. Plaintiff highlighted the aforementioned facts. Plaintiff further asserted Springfield waived reliance on the unduly burdensome objection in section 3(g) by failing to meet the statutory deadline for their response. In count I, plaintiff asserted Springfield violated FOIA by failing to produce the nonexempt public records sought by plaintiff. In count II, plaintiff asserted a claim for failure to perform an adequate search for responsive records. In count III, plaintiff argued Springfield willfully, intentionally, or otherwise acting in bad faith violated the FOIA. Plaintiff sought a declaration Springfield violated the FOIA, an order for Springfield to produce the requested records, attorney fees and costs, and civil penalties.

¶ 9 A September 23, 2020, e-mail from plaintiff's counsel to Springfield indicates Springfield had agreed to conduct the additional search and had produced records to plaintiff's satisfaction. The e-mail does not establish on what date those events occurred.

¶ 10 In February 2021, Springfield moved for summary judgment. In the motion, Springfield admitted plaintiff submitted a FOIA request on January 21, 2020, and Springfield responded to the request on or about February 4, 2020. Springfield acknowledged its response to the FOIA request did not occur within five business days but maintained the "delayed response was corrected as soon as it was discovered." Springfield further admitted it agreed to conduct a search pursuant to plaintiff's amended request and stated its production satisfied plaintiff. Springfield maintained "the issue of producing records in response to Plaintiff's FOIA Request is now moot" and a civil penalty was inappropriate, as its conduct was not willful. Springfield's written motion did not explicitly address attorney fees.

¶ 11 In plaintiff's response to the motion, plaintiff argued attorney fees were appropriate, as Springfield failed to timely and appropriately respond to his FOIA request.

¶ 12 A hearing on defendant's motion for summary judgment was held on April 8, 2021. As to the matter of attorney fees, the parties disputed whether such fees could be ordered in the absence of a court order in plaintiff's favor. The trial court asked the parties to submit proposed orders to the court.

¶ 13 On April 12, 2021, the trial court granted Springfield's motion for summary judgment. The court found Springfield performed an adequate search for all records plaintiff requested. The court concluded plaintiff's FOIA request as to "Part 2" was unduly burdensome. As to "Part 3," the court found plaintiff's request failed to reasonably identify the records sought. The court further found Springfield did not willfully or intentionally violate FOIA or otherwise act in bad faith in responding to plaintiff's FOIA request.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 A. The Trial Court Did Not Rule on Moot Claims

¶ 17 Plaintiff initially argues the trial court erroneously ruled on claims made moot by Springfield's production of the requested documents. Plaintiff, citing our decision in *Roxana Community Unit School District No. 1 v. Environmental Protection Agency*, 2013 IL App (4th) 120825, ¶¶ 41-42, 998 N.E.2d 961, maintains his first two claims in his complaint, claims asserting an inadequate search and production, became moot once Springfield provided the documents sought. Plaintiff argues the trial court thus erred in ruling on the propriety of Springfield's search and production.

¶ 18 Springfield counters the question of the adequacy of the search and production were not moot, as the complaint sought civil penalties. Springfield argued the propriety of its actions was relevant to that request. Springfield concludes the trial court thus did not err in finding the search and production proper.

¶ 19 Illinois case law establishes once an agency provides the documents requested, even after a delay in violation of FOIA, the plaintiff's "prayers seeking or concerning production are moot." *Id.* ¶ 42. However, case law further establishes other issues may remain viable, such as a request for attorney fees under section 11(i) (5 ILCS 140/11(i) (West 2020)) and a request for a civil penalty under section 11(j) (*id.* § 11(j)). Here, in his complaint, plaintiff requested both attorney fees and a civil penalty. Under FOIA, a civil penalty shall be ordered "[i]f the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith." *Id.*

¶ 20 Plaintiff argues his claim for civil penalties did not keep the propriety of the search and production from becoming moot. Plaintiff reasons he was not seeking a civil penalty based on Springfield's search and production of documents but based on Springfield's failure to respond timely to his request and Springfield's failure to offer an opportunity to confer and narrow the request as required by section 3(g) (*id.* § 3(g)). Because of this, he concludes, the adequacy of the search and production was irrelevant.

¶ 21 Given plaintiff's request for civil penalties, we find no error in the trial court's consideration of the adequacy of Springfield's response to plaintiff's initial request for records. Even though plaintiff asserts his arguments do not concern the search and production, Springfield's conduct while addressing plaintiff's FOIA requests was relevant to the trial court's determination of whether Springfield acted in bad faith in not timely responding and in not offering to meet and confer.

¶ 22 B. FOIA Plaintiffs Can Recover Attorney Fees Absent a Court Order

¶ 23 Section 11(i) of FOIA provides for the award of attorney fees:

> "If a person seeking the right to inspect or receive a copy of a public record *prevails* in a proceeding under this Section, the court shall award such person reasonable attorney's fees and costs. In determining what amount of attorney's fees is reasonable, the court shall consider the degree to which the relief obtained relates to the relief sought. The changes contained in this subsection apply to an action filed on or after January 1, 2010 ***." (Emphasis added.) *Id.* § 11(i).

¶ 24 Plaintiff argues the trial court erred by not ordering attorney fees under section 11(i), as the uncontested evidence establishes both Springfield violated FOIA by not complying with his request within the statutory deadlines and he "prevailed" in his case when Springfield produced

the records he sought. Plaintiff maintains under FOIA a court order is not a prerequisite to an attorney fees award and urges this court to accept the catalyst theory, which allows a plaintiff to recover attorney fees in the absence of a court order if the litigation caused the defendant to change its position. See *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598, 601 (2001). In support of his argument, plaintiff relies heavily on the First District Appellate Court's decision in *Uptown People's Law Center v. Department of Corrections*, 2014 IL App (1st) 130161, 7 N.E.3d 102, and the Fifth District Appellate Court's decision in *Perdue v. Village of Tower Hill*, 2015 IL App (5th) 140357-U.

¶ 25 While Springfield acknowledges it failed to comply with the five-day deadline of FOIA, Springfield argues, however, attorney fees were not appropriate, as it had complied and produced the requested documents to plaintiff's satisfaction before a court order had been entered. Springfield argues the more reasoned approach to the question of attorney fees under FOIA was adopted by the Second District Appellate Court in *Rock River Times v. Rockford Public School District 205*, 2012 IL App (2d) 110879, 977 N.E.2d 1216, which held a court order is a prerequisite before attorney fees could be ordered under FOIA.

¶ 26 This question of whether FOIA authorizes an award of attorney fees in the absence of a court order in the plaintiff's favor is a matter of statutory construction, an issue we review *de novo*. See *Marsh v. Sandstone North, LLC*, 2020 IL App (4th) 190314, ¶ 63, 179 N.E.3d 402 (observing matters of statutory construction are reviewed *de novo*). In construing a statute, our key task is determining legislative intent. *Sangamon County Sheriff's Department v. Illinois Human Rights Comm'n*, 233 Ill. 2d 125, 136, 908 N.E.2d 39, 44 (2009). The statute's language is itself the most reliable indicator of that intent. *Vance v. Joyner*, 2019 IL App (4th) 190136, ¶ 52, 146 N.E.3d 285. In construing the language of a statute, we consider the statute as a whole and do not construe words in isolation but in light of the other relevant provisions of the statute. *Marsh*, 2020 IL App (4th) 190314, ¶ 63. When the language of the statute is clear and unambiguous, we will not turn to other tools of statutory construction. *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 217, 886 N.E.2d 1011, 1022 (2008). When a statute's meaning is ambiguous, however, we may look beyond the language of the statute and consider the law's purpose, the evils the law was meant to remedy, and the statute's legislative history. *Id.*

¶ 27 FOIA serves "the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them." 5 ILCS 140/1 (West 2020). According to our legislature, this access "is necessary to enable people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest." *Id.* To serve this policy, FOIA requires, with exceptions, all public bodies "make available to any person for inspection or copying all public records." *Id.* § 3(a).

¶ 28 Consistent with public policy, FOIA provides rules to insure governmental compliance with its terms. For example, FOIA requires a prompt response to a request for inspection or a copy of documents: "[e]ach public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt *** unless the time for response is properly extended." *Id.* § 3(d). FOIA further provides a means to encourage and enforce governmental compliance. For instance, a lack of a timely response denies the public body the right to "treat the request as unduly burdensome." *Id.* In addition, when a person who has been

denied access to a public record by a public body, that individual "may file suit for injunctive or declaratory relief" and seek attorney fees and civil penalties from that public body. *Id.* § 11(a), (i), (j).

¶ 29 In this case, the record establishes defendants failed to comply with the five-day statutory deadline. The record also shows some disagreement over Springfield's use of the unduly burdensome exception. While the parties ultimately came to an agreement as to a more limited production and plaintiff was satisfied with that production, this production and agreement occurred after plaintiff filed his complaint for declaratory and injunctive relief. No court order directed Springfield's compliance.

¶ 30 Three Illinois district appellate courts, the First, Second, and Fifth, have ruled on the issue of whether a plaintiff can recover attorney fees under the most recent version of section 11(i). Springfield relies on the decision of the Second District in *Rock River Times*, while plaintiff urgers this court to accept the position taken by the First and Fifth Districts' decisions in *Uptown* and *Perdue*.

¶ 31 In *Rock River Times*, the Second District was the first to consider the meaning of the term "prevails" after section 11(i) was modified. In *Rock River Times*, the plaintiff newspaper filed a FOIA request for a copy of a letter written by a school principal to a school superintendent. *Rock River Times*, 2012 IL App (2d) 110879, ¶ 1. Initially, the school, relying on three exemptions, refused to release the letter. See *id.* ¶¶ 1, 4. After the denials, the newspaper filed suit under FOIA. *Id.* ¶ 1. While the case remained pending, the school produced the letter to the defendant and moved to dismiss the newspaper's complaint as moot. *Id.* ¶ 10. In response, the newspaper urged the court to deny the school's motion and filed a petition for a civil penalty and attorney fees. *Id.* ¶¶ 10-11. The school countered by filing a summary judgment motion, arguing the newspaper was not entitled to attorney fees, as it had not prevailed in its FOIA lawsuit. *Id.* ¶ 15. The trial court granted summary judgment to the school, granted the newspaper's request for a civil penalty, and denied the request for attorney fees. *Id.* ¶ 1.

¶ 32 On appeal, the Second District analyzed the history of FOIA's attorney fees provision. The court observed the earlier version of section 11(i) allowed the trial court discretion to award attorney fees for a person who "substantially prevails" in a FOIA proceeding. *Id.* ¶ 30. That version provided if a "person seeking the right to inspect or receive a copy of a public record substantially *prevails* in a proceeding under this section, the court *may* award such person reasonable attorneys' fees." (Emphases added.) 5 ILCS 140/11(i) (West 2008). This earlier version mirrored language in the federal FOIA. *Rock River Times*, 2012 IL App (2d) 110879, ¶ 30 (citing 5 U.S.C. §§ 552(a)(4)(E), 552a(g)(3)(B) (1994)). The Second District observed earlier Illinois court decisions interpreted the "substantially prevails" provision to allow recovery of attorney fees when records were released after suit was filed and before a court order was entered. *Id.* (citing *People ex rel. Ulrich v. Stukel*, 294 Ill. App. 3d 193, 202-03, 689 N.E.2d 319 (1997), and *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App. 3d 778, 787, 709 N.E.2d 1281 (1999)).

¶ 33 The *Rock River Times* court emphasized the presumption is that an amendment is intended to change the law as it formerly existed rather than affirm it. *Id.* ¶ 38. The court then cited Black's Law Dictionary's definition of "prevail" as " '[t]o obtain the relief sought in an action; to win a lawsuit' " (*id.* ¶ 40 (quoting Black's Law Dictionary 1206 (7th ed. 1999))) and found the term unambiguous (*id.* ¶ 41). The court further reasoned, by deleting the word "substantially" from modifying "prevail," "the legislature evinced an intent to require nothing

less than court-ordered relief in order for a party to be entitled to attorney fees under *** FOIA." *Id.* ¶ 40. Because the school released the letter before the court ordered relief, the Second District held the newspaper was not a prevailing party. *Id.*

¶ 34 In contrast, the First District, in *Uptown*, disagreed with *Rock River Times* and concluded a FOIA plaintiff can prevail and be entitled to attorney fees absent a court order. In *Uptown*, the plaintiff sought records from the Illinois Department of Corrections (IDOC) related to prison conditions. *Uptown*, 2014 IL App (1st) 130161, ¶ 3. After the IDOC did not respond to plaintiff's request, the plaintiff filed suit seeking a declaration the IDOC violated FOIA, the production of the requested documents, and attorney fees. *Id.* The IDOC produced the records two months later. *Id.* ¶ 4. The trial court relied upon *Rock River Times* and concluded the plaintiff could not recover as the IDOC provided the records without a court order. *Id.* ¶ 5.

¶ 35 On appeal, the First District, unlike the Second District, found the term "prevails" ambiguous, as "reasonable people could understand such language in multiple ways." *Id.* ¶ 12. The court observed the plain language of the word, not defined in FOIA, could be read to include a court order as a prerequisite to recovery of attorney fees and to provide for situations when a plaintiff obtains the relief sought by starting a proceeding that leads to the government producing the requested records without a court order. *Id.* "Either interpretation would arguably further FOIA's goals, albeit in varying degrees, of expeditiously disclosing information to the public and encouraging the public to seek judicial relief." *Id.*

¶ 36 The *Uptown* court then examined the history of the attorney fees provision. *Id.* ¶ 13. As the Second District did, the First District observed the previous version of section 11(i) *permitted* an award of plaintiff attorney fees when the plaintiff *substantially* prevailed, rather than when plaintiff "merely prevailed." *Id.* (citing 5 ILCS 140/11(i) (West 2008)). Under that version, it was generally accepted a court order was not necessary before a plaintiff could recover attorney fees under FOIA. See *id.* (citing *Stukel*, 294 Ill. App. 3d at 201-03, and *Duncan Publishing, Inc.*, 304 Ill. App. 3d at 780-82, 786).

¶ 37 The First District then summarized the ramifications of the United States Supreme Court decision of *Buckhannon*, 532 U.S. 598. In *Buckhannon*, the Court determined that the term "prevailing party" in the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 *et seq.* (2000)) and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.* (2000)) did not include a plaintiff that achieved a desired result though the opponent's "voluntary change of position." *Uptown*, 2014 IL App (1st) 130161, ¶ 16 (citing *Buckhannon*, 532 U.S. at 605). After *Buckhannon* was decided, Congress amended the federal FOIA to prevent its holding to be applied to its provisions. *Uptown*, 2014 IL App (1st) 130161, ¶ 17.

¶ 38 The First District observed the Illinois legislature then amended the Illinois FOIA attorney fees provision to its current state after *Buckhannon* and the changes to the federal law. *Id.* ¶ 18. The legislature removed the word "substantially" from "substantially prevails" and stripped the trial courts of their discretion in awarding attorney fees, making attorney fees mandatory when a FOIA plaintiff prevails. *Id.* (citing 5 ILCS 140/11(i) (West 2010)). The First District further examined the legislative history behind the modification and concluded that history "reflects an intention to be more favorable to individuals who make meritorious FOIA requests." *Id.* For example, the First District emphasized statements of Senator Harmon, " 'There have been many court decisions that have defined the scope of FOIA, and we do not intend to overturn or otherwise interfere with these decisions, as I understand it.' " *Id.* (quoting

96th Ill. Gen. Assem., Senate Proceedings, May 28, 2009, at 42 (statements of Senator Harmon)).

¶ 39 The First District concluded "the modification was intended to ensure that successful plaintiffs could obtain attorney fees regardless of the extent to which they had prevailed, no matter how slight" and "increase the instances in which a plaintiff obtains attorney fees after receiving a requested document, not to decrease those instances." *Id.* ¶ 20. The court further found, had the legislature "intended to change existing Illinois case law to make court-ordered relief a prerequisite to an award of attorney fees under FOIA, it would have done so through clear language." *Id.*

¶ 40 Most recently, the Fifth District addressed the same issue and sided with the First District. See *Perdue*, 2015 IL App (5th) 140357-U, ¶¶ 29-30. The *Perdue* court concluded the interpretation set forth in *Uptown* "is expansive and in keeping with a stated purpose of the FOIA—'to operate openly and provide public records as expediently and efficiently as possible.' " *Id.* ¶ 29 (quoting 5 ILCS 140/1 (West 2012)). The *Perdue* court held "in order to 'prevail' in a FOIA suit, a court order is not required and a requester may be entitled to attorney fees if the requester prevails by obtaining the records after filing a suit." *Id.* ¶ 30.

¶ 41 Although this court had not yet considered the meaning of section 11(i)'s "prevails," we have questioned the policy of allowing governmental bodies to skirt the requirements of FOIA and avoid having to pay attorney fees by producing records before a court order is entered. In *Roxana*, 2013 IL App (4th) 120825, ¶ 11, the plaintiffs, on November 7, 2011, submitted a FOIA request to the agency seeking copies of pending applications for certification as a pollution-control facility. The agency did not produce the applications or seek an extension. *Id.* Approximately two weeks later, the plaintiffs asked about the unanswered request. On February 1, 2012, the agency provided the requested records. *Id.* On March 2, 2012, the plaintiffs submitted two additional FOIA requests. *Id.* ¶ 13. "During the week of April 2, 2012, the Agency complied with the March 2012 FOIA requests." *Id.* Between the date of the additional FOIA requests and the agency's compliance, the plaintiffs filed a complaint on March 12, 2012, for declaratory and injunctive relief and attorney fees.

¶ 42 The trial court granted summary judgment in the agency's favor, and the plaintiffs appealed. *Id.* ¶ 26. In one of their arguments to affirm the summary judgment order in its favor, the defendants argued the plaintiffs were not entitled to the requested relief because the agency eventually complied. *Id.* ¶ 40. We summarized the defendants' argument as follows and found it unpersuasive:

> "As we understand the import of defendants' assertion, the Agency can (1) acknowledge receipt of plaintiffs' FOIA request; (2) willfully ignore its statutory duty to either provide or deny the requested information within five business days or request an extension of time if it cannot comply with the five-day mandate; and (3) at its discretion or sometime before an impending civil action, provide the pertinent FOIA information, which negates plaintiffs' request for relief." *Id.*

After finding this argument unpersuasive, we determined the plaintiffs' request for attorney fees survived and reversed the summary judgment order. *Id.* ¶¶ 42, 59.

¶ 43 Upon our review of the case law and the parties' arguments, we find the position taken by the First and Fifth Districts more persuasive. We agree the term "prevails" is ambiguous. The Black's Law Dictionary definition, the one relied upon by the Second District, reveals this ambiguity. "Prevail" is defined as " '[t]o obtain the relief sought in an action; to win a

lawsuit.' " *Rock River Times*, 2012 IL App (2d) 110879, ¶ 40 (quoting Black's Law Dictionary 1206 (7th ed. 1999)). Applying this definition, "the relief sought" in a FOIA action is the production of the requested documents. The production of said documents without a court order satisfies that part of the Black's Law Dictionary's definition of "prevail." This ambiguity allows for consideration of the history of section 11(i). We find the First District's interpretation of said history consistent with the stated purpose of FOIA.

¶ 44 We further find Springfield's remaining arguments unconvincing. For example, Springfield argues conditioning an award of attorney fees on the requester prevailing with a court order furthers the intent of FOIA by ensuring the requests are not frivolous in nature. There are, however, other safeguards protecting against frivolous lawsuits. Illinois Supreme Court Rule 137(a) (eff. Jan. 1, 2018) provides for the impositions of sanctions on any attorney who would do so. In addition, section 11(i) of FOIA does not permit attorneys *all* fees they seek. The trial court has discretion to award reasonable fees and not award fees for any part of the claim that is unsuccessful or frivolous: "[i]n determining what amount of attorney's fees is reasonable, the court shall consider the degree to which the relief obtained relates to the relief sought." 5 ILCS 140/11(i) (West 2020).

¶ 45 Similarly unconvincing is Springfield's argument regarding the legislative history of FOIA in that the comments relied upon in *Uptown* were taken out of context, as the legislators were discussing sweeping changes to FOIA. In particular, Springfield points to the comments by Senator Harmon as made in reference to the "House amendments" and not regarding the changes to section 11(i). Whether this is true or not is irrelevant, as we have given very little weight to the comments by the legislators. What is more convincing is the timing of the amendments following the *Buckhannon* opinion and the changes itself to the plain language of section 11(i), making attorney fees easier to obtain for successful FOIA complainants. We note Springfield identifies no legislative comment in the legislative history that supports its claim.

¶ 46 Having found a favorable court finding unnecessary for a FOIA complainant to "prevail" in their suit against a governmental body, the issue turns on the relief to be granted in this case. The parties agree Springfield did not comply with the statutory deadline and did not produce documents to plaintiff's satisfaction until after the lawsuit was filed. The record establishes the trial court did not hear arguments on the reasonableness of the fees requested but only argument as to the meaning of the word "prevail" before granting summary judgment against plaintiff. Under these circumstances, plaintiff is entitled to have his request for attorney fees heard. The extent to which what fees are reasonable under FOIA is within the trial court's discretion. See *id.*

¶ 47 In *Roxana*, when the issue of attorney fees remained viable after the requested remedies of the production of the documents was rendered moot, we reversed the summary judgment order and remanded for further proceedings to allow plaintiffs the opportunity to pursue their request for attorney fees. *Roxana*, 2013 IL App (4th) 120825, ¶¶ 42, 59. We will follow *Roxana*'s lead and do the same here. We note the only requested relief on appeal is the opportunity to be heard on attorney fees. We reverse the trial court's grant of summary judgment in Springfield's favor as to counts I and II and remand for further proceedings.

¶ 48 III. CONCLUSION

¶ 49 We reverse the trial court's order for summary judgment and remand.

¶ 50 Reversed and remanded.