

Sam A. Williams, at 235 International Blvd., P.O. Box 1740, Atlanta, Georgia, 30301. On information and belief, it has done business both in its own name and as the ATLANTA 2009 SUPER BOWL BID COMMITTEE (hereinafter referred to collectively with the ATLANTA 2009 SUPER BOWL BID COMMITTEE, INC. as “the Atlanta 2009 Super Bowl Bid Committee”). The Atlanta 2009 Super Bowl Bid Committee was sometimes identified by the Defendants as the “Super Bowl 2009 Host Committee.”

3.

Defendant CENTRAL ATLANTA PROGRESS, INC. (“CAP”) is a corporation organized under Georgia law with its principal place of business in Atlanta, Georgia. It may be served by delivering a copy of this complaint to its registered agent, Paul B. Kelman, at 50 Hurt Plaza, Grand Lobby, Atlanta, Georgia, 30303. On information and belief, it has done business both in its own name and as the NASCAR HALL OF FAME ORGANIZING COMMITTEE.

4.

Defendant ATLANTA 2009 SUPER BOWL BID COMMITTEE, INC. is a corporation organized under Georgia law with its principal place of business in Atlanta, Georgia. It may be served by delivering a copy of this complaint to its registered agent, Raymond E. Baltz, Jr., at 191 Peachtree St. NE, Atlanta, Georgia, 30303.

5.

Defendant NASCAR HALL OF FAME ORGANIZING COMMITTEE (hereinafter individually or as part of CAP referred to as “the NASCAR Hall of Fame Committee”) is, on information and belief, a partnership, association or joint venture organized and supported by CAP. It may be served by delivering a copy of this Complaint to Douglas Scribner at Alston & Bird, LLP, One Atlantic Center, 1201 West Peachtree Street, Atlanta, GA 30309.

6.

This Court has jurisdiction over this action to enforce Georgia's Open Records Act pursuant to its express grant of jurisdiction provided in O.C.G.A. § 50-18-73(a) and through its equitable and injunctive powers stated in Ga. Const. Art. VI, Sec. IV, Para. I and O.C.G.A. § 9-5-1 *et seq.* Venue in this action is proper in Fulton County pursuant to Ga. Const. Art. VI, Sec. II, Paras. III, IV.

Atlanta's Bid for the 2009 Super Bowl

7.

In March 2005 citizens and government officials of Georgia and metropolitan Atlanta formed the Atlanta 2009 Super Bowl Bid Committee. The purpose of the Atlanta 2009 Super Bowl Bid Committee was to bring to Atlanta the 2009 Super Bowl, an event with national prominence -- "the largest national sporting event held in the United States" -- sponsored by the National Football League ("NFL").

8.

The Atlanta 2009 Super Bowl Bid Committee included numerous state and local government officials. Among them were:

- Georgia Governor Sonny Perdue;
- Atlanta Mayor Shirley Franklin;
- Carl Adkins, General Manager of the Georgia Dome;
- Dan Graveline, Executive Director of the George L. Smith II Georgia World Congress Center Authority ("Georgia World Congress Center"); and
- Khalil Johnson, Chief Operating Officer of the Georgia World Congress Center.

9.

The Atlanta 2009 Super Bowl Bid Committee repeatedly referred in their public pronouncements to the public officials on the Committee by their official titles or capacities, relying on those capacities as one means of trying to win the 2009 Super Bowl.

10.

The Atlanta 2009 Super Bowl Bid Committee advertised and lobbied for the 2009 Super Bowl -- both to the public and to the NFL -- based on the fact that it could be held at the Georgia Dome. Indeed, the facilities of the Georgia Dome were considered one of the primary draws to bring the 2009 Super Bowl to Atlanta.

11.

The Georgia Dome is a publicly owned building. It was financed with millions of dollars of government bonds issued on behalf of the Georgia World Congress Center.

12.

The Atlanta 2009 Super Bowl Bid Committee also advertised and lobbied for the 2009 Super Bowl based on its benefits and fiscal impact on the City of Atlanta and the State of Georgia. The 2009 Super Bowl was asserted in a March 2005 press release by the Atlanta 2009 Super Bowl Bid Committee to be “a terrific draw for visitors to the City, bringing in revenue to the City and the State and showcasing the City to people around the world.” The 2009 Super Bowl was advertised as an event for the City of Atlanta.

13.

The Atlanta 2009 Super Bowl Bid Committee, which included public officials, budgeted six million dollars (\$6,000,000) of public sector funding to obtain and put on the 2009 Super Bowl. This amount constituted over forty-three percent (43%) of the Atlanta 2009 Super Bowl

Bid Committee's operating budget. The amount of anticipated public expenditures included over one million four hundred thousand dollars (\$1,400,000) in publicly estimated costs for police and fire protection associated with the hosting of the Super Bowl.

14.

The NFL required that there would be no charge for any public security/safety services associated with the hosting of the Super Bowl.

15.

In addition, the NFL required, and on information and belief the public officials associated with attempting to obtain the 2009 Super Bowl agreed to provide, at no cost:

- a dedicated senior police officer assigned to each team in the Super Bowl;
- police escorts for teams in the Super Bowl at the game and at practice;
- police escorts for team owners to and from the Super Bowl;
- police escorts for media and game officials;
- special services for the NFL and teams at Atlanta Hartsfield Jackson Airport;
- that the City of Atlanta have or enact anti-scalping laws;
- that, after the award of the 2009 Super Bowl to Atlanta, the NFL, the Super Bowl and its related events, such as "The NFL Experience" be exempt from any taxes and surcharges;
- resolutions waiving special licensing for up to four hundred fifty (450) courtesy cars and shuttle buses;
- first refusal advertising rights for the NFL on all state and city public transportation;
- restricted air space rights above and around the Georgia Dome;
- a one mile cordon free from merchandise vending around the Georgia Dome and around NFL planned events related to the 2009 Super Bowl;
- "nexus status" for the NFL and its affiliates; and

- assistance allowing alcoholic beverages to be served until at least 4:00 a.m. on the morning before the 2009 Super Bowl.

16.

Over \$100,000 in public money has already been spent in public improvements with the intent of drawing the Super Bowl to Atlanta. Yet the actual amount of public money that has been spent on attempting to obtain the 2009 Super Bowl cannot be determined since all documents that might show this have not been released.

17.

Numerous public officials issued resolutions which were transmitted to the NFL in the hope of bringing the 2009 Super Bowl to Atlanta. These included a letter by the Mayor of the City of Atlanta, Shirley Franklin, expressly offering her personal commitment to “mobilize all of my resources to garner the required City of Atlanta support, including the police, fire, planning, aviation, and financing (licensing) departments” These promises were made on the Mayor’s letterhead and were expressly made by her as “Mayor of the City of Atlanta.” In addition, there were numerous other resolutions and offers of support by public officials, including a resolution offering support by the City Council of the City of Atlanta, a letter from the President of the Atlanta City Council, a letter from the Chief of Police of the City of Atlanta, a letter from the Fire Chief of the City of Atlanta, a letter from the Commissioner of Public Works of the City of Atlanta, a letter from the Director of Marketing of the Metropolitan Atlanta Rapid Transit Authority (MARTA).

18.

There may have been other commitments of support, resolutions and letters by public officials, promises (whether binding or not) of expenditures of public funds and resources, and

public money spent to obtain the 2009 Super Bowl for Atlanta, but not all bid documents relating to the attempt to obtain the 2009 Super Bowl for Atlanta have been made public.

19.

In order to obtain the 2009 Super Bowl the NFL required that bids be made by the competing cities or regions seeking the games. These cities or regions included, according to the NFL, “Atlanta, Houston, South Florida [and] Tampa.”

20.

In accordance with the NFL’s bid requirement, a bid was submitted by the Atlanta 2009 Super Bowl Bid Committee or by MACOC or both on behalf of “Atlanta” to the NFL. (This bid is referred to hereinafter as the “Super Bowl bid” or “Atlanta’s Super Bowl bid.”) The purpose of this bid was to secure the 2009 Super Bowl for the City of Atlanta and its citizens and its businesses.

21.

After considering all of the bids before it for the 2009 Super Bowl, the NFL declined Atlanta’s Super Bowl bid.

22.

Reporters for *The Atlanta Journal-Constitution* (“AJC”), a newspaper with its primary circulation in the metropolitan Atlanta area, requested in May and June, 2005, that MACOC and the Atlanta 2009 Super Bowl Bid Committee produce the Atlanta Super Bowl bid and the documents submitted with the bid for inspection and copying under Georgia’s Open Records Act. MACOC and the Atlanta 2009 Super Bowl Bid Committee refused. (See Exhibits A and B hereto which are true and accurate copies of responses on behalf of MACOC and the Atlanta 2009 Super Bowl Bid Committee to Open Records Act requests by the AJC.)

23.

The AJC, by and through its counsel, then filed a complaint with the Attorney General, Plaintiff herein, about MACOC's and the Atlanta 2009 Super Bowl Bid Committee's refusal to comply with the Open Records Act. (*See Exhibit C hereto which is a true and accurate copy of the AJC's complaint, through its counsel, to the Attorney General.*)

24.

After considering a response by counsel acting on behalf of MACOC and the Atlanta 2009 Super Bowl Bid Committee, the Attorney General wrote the interested parties expressing his view that the records were subject to disclosure under the Open Records Act. (*See Exhibit D hereto which is a true and accurate copy of letters by Douglas Scribner, acting as counsel on behalf of MACOC and the Atlanta 2009 Super Bowl Bid Committee, to Attorney General Thurbert Baker, and Exhibit E hereto which is a true and accurate copy of the letter constituting the response and analysis of the Attorney General.*)

25.

MACOC and the Atlanta 2009 Super Bowl Bid Committee have subsequently made plain that they will not comply with the Open Records Act. (*See Exhibit F hereto which is a true and accurate copy of a letter by Douglas Scribner, acting as counsel on behalf of MACOC and the Atlanta 2009 Super Bowl Bid Committee, to Attorney General Thurbert Baker declining to follow his direction that the bid documents be released pursuant to the Open Records Act.*)

The Bid for the NASCAR Hall of Fame

26.

On or before May 31, 2005 CAP and/or the NASCAR Hall of Fame Committee, acting in cooperation and coordination with the Atlanta Convention and Visitors Bureau, MACOC, and

officers and agencies of the State of Georgia, the City of Atlanta, and Fulton County, prepared and submitted a bid to the National Association for Stock Car Auto Racing (“NASCAR”) in response to a request for proposals (“RFP”) issued by NASCAR for a new NASCAR Hall of Fame and Museum. (The bid is referred to below as the “NASCAR bid.”)

27.

The NASCAR Hall of Fame and Museum was viewed by CAP, the NASCAR Hall of Fame Committee and its partners, according to a letter dated March 7, 2005, from A.J. Robinson to the Fulton County Board of Commissioners, as “an enormous economic generator for the City, Fulton County, the Atlanta metro area, and the entire state of Georgia.”

28.

Over one hundred thousand dollars (\$100,000) in public money was spent to generate the bid for the NASCAR Hall of Fame and Museum. The full amount of public money that has been spent, however, cannot currently be determined by the Attorney General since not all public documents concerning the bid have been released.

29.

In addition to the public money and resources already expended in generating the bid, over thirty million dollars (\$30,000,000) in public money was budgeted or offered in pledges to support the museum. CAP, the NASCAR Hall of Fame Committee and its partners considered as means of public financing a sales tax exemption, a grant and a government bond issue, among other things.

30.

The NASCAR Hall of Fame Committee, and its Board of Directors (BOD), was populated with numerous public officials. These included:

- Governor Sonny Perdue (BOD)
- Dan Graveline from the Georgia World Congress Authority;
- Chris Clark from the Georgia Department of Economic Development;
- Loretta Lepore from the Georgia Department of Economic Development;
- Craig Lesser from the Georgia Department of Economic Development;
- Chairman Karen Handel from the Fulton County Commission (BOD);
- Commissioner Nancy Boxill from the Fulton County Commission (BOD);
- Mayor Shirley Franklin of the City of Atlanta (BOD);
- Robbie Ashe from the Office of the Mayor of the City of Atlanta;
- Imara Canady from the Office of the Mayor of the City of Atlanta;
- President Lisa Borders from the Atlanta City Council (BOD);
- Senator Saxby Chambliss (BOD);
- Senator Johnny Isakson (BOD) and
- Representative John Lewis (BOD).

31.

The status and political offices held by the above officials -- most notably by those officials on the Board of Directors -- was used and advertised to demonstrate the support of Georgia state and local governments and their public officials for the bid.

32.

Some of the public officials involved also published on their official websites their participation in the bid and their view of the value of the NASCAR Hall of Fame and Museum to the City of Atlanta and the State.

33.

As with the Atlanta Super Bowl bid, discussed above, reporters for the AJC requested in June, 2005, that CAP and the NASCAR Hall of Fame Committee produce the NASCAR bid for inspection and copying under Georgia's Open Records Act. CAP and the NASCAR Hall of Fame Committee refused. (*See Exhibits G and H hereto which are true and accurate copies of responses on behalf of CAP and the NASCAR Hall of Fame Committee to Open Records Act requests by the AJC.*)

34.

The AJC then filed a complaint with the Attorney General about CAP's and the NASCAR Hall of Fame Committee's refusal comply with the Open Records Act. This was addressed in the same letter by the AJC to the Attorney General as that discussing Atlanta's Super Bowl bid, and was responded to in a single letter by counsel acting on behalf of CAP, MACOC, the Atlanta 2009 Super Bowl Bid Committee, and the NASCAR Hall of Fame Committee. (*See Exhibits C and D hereto.*)

35.

Following the Attorney General's determination that CAP and the NASCAR Hall of Fame Committee are subject to the Open Records Act, counsel acting on behalf of CAP and the NASCAR Hall of Fame Committee has made plain that they do not believe that they are subject to, and therefore will not comply with, the Open Records Act. (*See Exhibit F hereto.*)

**COUNT I:
VIOLATION OF GEORGIA'S OPEN RECORDS ACT
IN REFUSING TO PRODUCE THE ATLANTA SUPER BOWL BID**

36.

The Attorney General hereby incorporates, as if fully set out herein, the allegations set

forth in paragraphs 1 through 35, above.

37.

Georgia's Open Records Act provides that "All public records of an agency ... shall be open for a personal inspection by any citizen of this state" O.C.G.A. § 50-18-70(b).

38.

The purpose of the Open Records Act -- and the well established public policy behind it -- is that the public's business must be open, not only to protect against potential abuse, but also to maintain the public's confidence in its officials.

39.

In preparing and submitting Atlanta's Super Bowl bid to the NFL, MACOC and the Atlanta 2009 Super Bowl Bid Committee were carrying out some public purpose not only with the support of but with the direct involvement of public officials.

40.

Atlanta's Super Bowl bid was substantially financed and supported by public officials using public money and public resources. These public officials and their offices were critical to the bid and its potential success.

41.

In preparing and submitting Atlanta's Super Bowl bid to the NFL, MACOC and the Atlanta 2009 Super Bowl Bid Committee were acting as "public agencies," as that phrase is used by the case law interpreting the Open Records Act, and the bid and the documents submitted with the bid are public records.

42.

In refusing to furnish Atlanta's Super Bowl bid and the documents submitted to the NFL

with the bid for inspection and copying, MACOC and the Atlanta 2009 Super Bowl Bid Committee violated the Open Records Act, O.C.G.A. § 50-18-70(b), and should be compelled by the Court to furnish these documents pursuant to O.C.G.A. § 50-18-73(a).

**COUNT II:
VIOLATION OF GEORGIA'S OPEN RECORDS ACT
IN REFUSING TO PRODUCE THE NASCAR BID**

43.

The Attorney General hereby incorporates, as if fully set out herein, the allegations set forth in paragraphs 1 through 42, above.

44.

In preparing and submitting the NASCAR bid to NASCAR, CAP and the NASCAR Hall of Fame Committee were carrying out some public purpose not only with the support of but with the direct involvement of public officials.

45.

The NASCAR bid was substantially financed and supported by public officials using public money and public resources. These public officials and their offices were critical to the bid and its potential success.

46.

In preparing and submitting the NASCAR bid documents to NASCAR, CAP and the NASCAR Hall of Fame Committee were acting as "public agencies," as that phrase is used by the case law interpreting the Open Records Act, and the bid and the documents submitted with it to NASCAR are public records.

47.

In refusing to furnish the NASCAR bid documents for inspection and copying, CAP and

the NASCAR Hall of Fame Committee violated the Open Records Act, O.C.G.A. § 50-18-70(b), and should be compelled by the Court to furnish these documents pursuant to O.C.G.A. § 50-18-73(a).

WHEREFORE, having fully plead his Complaint and provided Defendants with notice of the claims against them, the Attorney General respectfully demands as follows:

- (a) that process and service of process issue against each of the Defendants should they refuse to acknowledge service in compliance with O.C.G.A. § 9-11-4(d);
- (b) that the Defendants be ordered to expeditiously comply the Open Records Act and produce for inspection and copying the documents in issue;
- (c) that all costs of this action be cast against the Defendants; and
- (d) that the Court grant such other relief in favor of Plaintiff as it deems just and proper.

Respectfully submitted,

s/

THURBERT E. BAKER 033887
Attorney General

s/

JEFF MILSTEEN 509820
Deputy Attorney General

s/

DENNIS DUNN 234098
Deputy Attorney General

[Signatures continued]

s/
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Senior Assistant Attorney General

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PLEASE ADDRESS ALL
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