



September 11, 2019

VIA E-MAIL

Mr. Matthew Brady

Quaere, Inc.

Email: mbrady@quaereinc.com

RE: 19-FOIA-234 Landers Freight Yard incident

Dear Mr. Brady:

The FOIA Department is responding to your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“**FOIA**”).

I. Background

On August 15, 2019, the FOIA Department received your request for a copy of any and all records, reports, photographs, damage assessments, claim forms, repair appraisals or other documents in the care, custody and control of METRA regarding a grade crossing collision involving Metra train no. 829, occurring on October 10, 2011 at 1805 hours at the Landers Freight Yard grade crossing (DOT Grade Crossing Number 914218V) in Chicago, IL (“**Request**”). Your Request is granted in part and denied in part.

On August 27, 2019, the FOIA Department reached out to you via telephone to discuss your Request. During the telephone conference the FOIA Department asked you to narrow your Request to exclude your reference to “any and all” records. You agreed to narrow your Request to exclude the phrase “any and all”, and you narrowed your Request further by stating you are specifically interested in acquiring the repair records, the accident / incident report, and photographs showing damage to the train – primarily the pilot bar. Subsequently, the FOIA Department sent you an email summarizing the telephone exchange and asking if you agreed with the summary of events as set forth therein; you agreed.

II. Responsive Documents

In response to your Request the FOIA Department is providing you with Metra Police Report No. MP-11-049510, an Illinois Traffic Crash Report, damage expenses, a billing summary, an invoice, proof of payment for the damages, and multiple photographs (“**Responsive Documents**”).

III. Partial Denial

While FOIA requires public bodies to provide access to public records generally, FOIA also authorizes units of government to withhold certain information. Therefore, Attorney Aruj Chaudry has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The driver's license number, employee identification number, personal financial information, medical records, personal telephone number, home address, and personal license plate numbers of the parties mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts "private information." "Driver's license numbers," "employee identification numbers," "personal financial information," "medical records," "personal telephone numbers," "home addresses," and "personal license plate numbers" are specifically mentioned within the definition of "private information" found in Section 2(c-5) of FOIA.
2. The names of third parties, insurance policy numbers, dates of birth and physical descriptions of the parties mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(c) of FOIA, which exempts "personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy...." Section 7(1)(c) goes on to say that, "Unwarranted invasion of personal privacy' means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." It has been determined that the aforementioned data falls squarely within that definition and its redaction is appropriate under FOIA.
3. Section 7(1)(a) of FOIA exempts "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." 5 ILCS 140/7(1)(a). Accordingly, the home address, date of birth, physical description and driver's license number of the parties mentioned in the report are exempt from disclosure per the Driver's Privacy Protection Act, 18 U.S.C. § 2721 *et seq.*, which prohibits individuals from knowingly obtaining or disclosing "personal information" from a motor vehicle record.
4. The LEADS information is exempt from release under Section 7(1)(d-5) of FOIA which states, "A law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has access to the record through the shared electronic record management system." The Metra Police Department only has access to information contained within Soundex and has no role in the creation of this information.
5. Notes made on the photographs and email correspondence identified as responsive to the Request is redacted in its entirety under Section 7(1)(f) of FOIA. Section 7(1)(f) states records that are, "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]" are exempt from disclosure. 5 ILCS 140/7(1)(f). The above-referenced email correspondence contains preliminary information and as such, Attorney Aruj Chaudhry has determined its redaction is appropriate under FOIA.

IV. Right of Review

You have the right to have the partial denial of your Request reviewed by the Public Access Counselor ("PAC") of the Illinois Attorney General's Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela K. Ollie".

Angela K. Ollie
Freedom of Information Officer
FOIA@metrarr.com
FOIA Hotline #312-663-3642

Attachments