

September 10, 2015

VIA E-MAIL

Mr. Vincent P. Floress

WBBM-TV

Email: wbbmtvdesk@cbs.com

RE: 15-FOIA-172 Surveillance Video/Documents 8/25/15 Accident Mt. Prospect

Dear Mr. Floress:

We are in receipt of your request under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*

I. Background

On August 25, 2015, we received your request for:

- Any surveillance video relating to the female pedestrian being struck by a Metra train in Mt. Prospect by the UP-NW line at Emerson and Northwest Highway on August 25, 2015; and
- Any documents relating to this event

(“**Request**”). Your Request is granted in part and denied in part.

II. Responsive Document

In response to your Request, Metra’s Police Department is providing you with a copy of incident report #15-40274 (“**Responsive Document**”).

After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your Request for surveillance video relating to the above-referenced accident. Metra’s Mechanical Department informed us that they do not possess any surveillance videos pertaining to this accident. Additionally, Metra’s Police Department advised that the primary law enforcement agency handling this accident was the Mt. Prospect Police Department, case #15-11618. You may visit the website of the Village of Mt. Prospect at: <http://www.mountprospect.org/index.aspx?page=310> where you will find information on how to submit a FOIA request for additional records.

Please note that this particular train line (the Union Pacific Northwest) is owned and operated by the Union Pacific Railroad (“**UP**”). We have contacted the UP concerning your request for records. In their response to our inquiry, the UP stated that the requested records are not public records and therefore, are not subject to production under FOIA or the Purchase of Service Agreement with Metra.

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 Thomas Stuebner has

determined that the following portions of the Responsive Document are exempt from disclosure under certain provisions of FOIA:

1. The employee identification number, password, home address, and driver's license number of the parties mentioned in the Responsive Document are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts "private information." "Employee identification numbers," "passwords," "home addresses," and "driver's license numbers" are specifically mentioned within the definition of "private information" found in Section 2(c-5) of FOIA.
2. The date of birth and the names of third-parties mentioned in the Responsive Document are being 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, gender and driver's license number of the party mentioned in the Responsive Document is 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.

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.

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If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,

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

Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com
FOIA Hotline #312-663-3642

Attachment