



November 14, 2016

VIA Email

Jill Ruszczak/Lee DeWald
DeWald Law Group PC
Email: jill@dewaldlawgroup.com

RE: 16-FOIA-290 Theodora Franck 5/31/16

Dear Jill Ruszczak/Lee DeWald:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“FOIA”).

I. Background

On November 10, 2016, we received your request for a copy of the crash report for an accident involving [REDACTED] and [REDACTED] which occurred on May 31, 2016 at the Metra Prospect Heights, Illinois railroad crossing (“Request”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra is providing you with a copy of Metra Police Report #MP-16-000-19155 and Illinois Traffic Crash Report U130171898 (“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 Jamie Harmann has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The employee identification number, personal telephone number, home address and personal license plate number of the parties mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Employee identification numbers,” “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 dates of birth, physical descriptions and insurance policy numbers mentioned in the Responsive Documents 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.

IV. Denial

The RC 4005 form mentioned in the Responsive Documents is denied for the following reasons: Damage and injury reports are exempt under 5 ILCS 140/7(1)(m) and 5 ILCS 140/7(1)(s). Section 7(1)(m) authorizes exemption from disclosure of “[m]aterials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body...” Damage and injury reports are prepared by Metra for several reasons, one of which is in anticipation of any possible legal proceedings that may stem from the occurred incident. Additionally, the above-mentioned reports are also exempt under Section 7(1)(s), which authorizes exemption from disclosure of “loss or risk management information, records, data, advice or communications.” These reports are maintained by Metra’s Risk Management Department as part of its duties to identify, assess, and manage risks. Accordingly, the above-mentioned report is hereby denied.

V. Right of Review

A person whose request to inspect or copy a public record was treated by the public body as a request for a commercial purpose under Section 3.1 of FOIA may file a request for review with the Public Access Counselor (“**PAC**”) of the Illinois Attorney General’s Office for the limited purpose of reviewing whether the public body properly determined that the request was made for a commercial purpose. 5 ILCS 140/9.5(b). 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.

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

Sincerely,



Sonsere Hatch
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642
Enclosure