

August 3, 2015

VIA E-MAIL

Mr. Christopher J. Johnson

Katz Friedman

Email: DAdamczyk@kfeej.com

RE: 15-FOIA-143 Any / All Documents - [REDACTED]

Dear Mr. Johnson:

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 July 17, 2015, we received your request for any and all documents and / or information regarding an incident (report #15-030039) occurring at approximately 6:00 a.m. on a Metra Rock Island train between 87th Street (Gresham stop) and 35th Street (Jones stop) involving a train window falling on passenger, [REDACTED]. Specifically, you requested:

1. Incident reports, records, notes, reports;
2. Any and all medical reports, notes, triage, for Laurie Parquet, or any other passengers or entities involved in this occurrence;
3. Any and all emergency service records and reports; and
4. Any and all information of any kind pertaining to the subject occurrence, including, but not limited to police reports, notes, drawings, diagrams, and communications from dispatch

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

We sent you an email on July 30th seeking an additional extension of your Request to August 7th explaining that due to the police department’s administrative division operating short-staffed, they were experiencing delays in processing police reports for release. We also noted that should we receive the police report prior to the new due date, we would send it to you immediately. You responded that same day, granting our extension to August 7th.

II. Responsive Document

In response to your Request, Metra’s Police Department is providing you with a copy of police report #15-030039 (“**Responsive Document**”).

After performing a diligent search of Metra’s records, we have been unable to locate any further records responsive to your Request. Metra’s Police and Risk Management Departments have advised that the police report was the only record they had on file for this matter.

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 numbers, personal telephone number, 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," "personal telephone numbers," "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 marital status, date and place of birth and the physical description of the party 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, driver's license number, and physical description of the party mentioned in the Responsive Document 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.

IV. Denial

The RC 4005 form mentioned in the Responsive Document 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). 5 ILCS 140/7(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 report is also exempt under 5 ILCS 140/7(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

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.

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

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com

Attachment