

September 14, 2015

VIA U.S. MAIL

Ms. Stacia Peterson
Law Office of Scott D. DeSalvo
200 N. LaSalle St., Ste. #2675
Chicago, IL 60601

RE: 15-FOIA-178 Police Report - [REDACTED] 6/12/15; Your File No.: 15sd167

Dear Ms. Peterson:

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 August 31, 2015, we received your request for a Metra police report concerning an accident that occurred in the area of S. Exchange Ave. and E. 72nd St. in Chicago, on June 12, 2015, at 1:32 p.m. involving your client [REDACTED] (“Request”). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra is providing you with copies of:

- Metra Police Department report #15-027733, with accident diagram, supplemental reports and photos;
- Metra Police Department Vehicle Tow Report;
- Illinois Traffic Crash Report #U110271427;
- Citation nos. R024870 and R024871; and
- I-Bond #I-8263991

(“Responsive Documents”).

We are also returning your check #004015, in the amount of \$5.00, as no fees were incurred producing the 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 Thomas Stuebner has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The employee identification numbers, personal telephone numbers, home addresses, and driver’s license numbers 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 “driver’s license numbers” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.

2. The dates of birth and the physical descriptions of the parties, as well as the vehicle insurance policy number 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.
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 parties mentioned in the Responsive Documents 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 two RC 4005 forms mentioned in the Responsive Documents are 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 reports are 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 reports are 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
FOIA Hotline #312-663-3642

Enclosures