



Schuering Law, Ltd.

Post Office Box 9622
Springfield, IL 62791-9622

Daniel P. Schuering
Attorney and Counselor

Phone: (217) 698-3975
Facsimile: (217) 546-5080
E-mail: dan.schuering@schueringlaw.com

February 14, 2017

Via Certified Mail Electronic Receipt Requested

Mr. John Kraft

Illinois Leaks

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RE: The City of Carlinville, Macoupin County, Illinois
John Kraft Freedom of Information Act Request

Dear Mr. Kraft:

The City of Carlinville is in receipt of your FOIA Request dated January 16, 2017 (the "FOIA Request"), and received by the City on January 17. It was forwarded to me by the FOIA Officer for reply.

Pursuant to Section 3.1 of the Freedom of Information Act (the "Act"), 5 ILCS 140/3.1, I am writing to inform you that the City of Carlinville is treating the FOIA Request as a request for a "commercial purpose," as the term is defined in Section 2(c-10) of the Act. *Id.* at 2(c-10), provide you an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City will require you to pay in full before copying the requested documents, and deny a part of your request pursuant to one or more of the exemptions set out in the Act. *Id.* at 3.1(a).

As provided for in Section 3.1(b) of the Act, the City will "comply with your request in a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes." *Id.* at 3.1(b).

Section 7(1)(m) of the Act exempts "communications between [the City] and an attorney . . . representing the public body that would not be subject to discovery in litigation . . ." from disclosure under the Act. *Id.* at (7)(m)(1). Under Illinois law, communications between a client and their attorney is privileged, and disclosure of those communications is "prevent[ed] . . . in judicial proceedings." *People v. Radojcic*, 2012 IL App (1st) 102698, ¶ 14, 969 N.E.2d 501, 505, *aff'd*, 2013 IL 114197, ¶ 14, 998 N.E.2d 1212 (*citing In re Marriage of Decker*, 153 Ill. 2d 298, 312, 606 N.E.2d 1094, 1101 (1992)). The purpose of this bar on disclosure is to encourage free and open consultation

Mr. John Kraft
Illinois Leaks
February 14, 2017
File: The City of Carlinville, Illinois
Matter: John Kraft Freedom of Information Act Request
Page 2

between a client and their attorney. *Decker*, 153 Ill. 2d at 312-13, 606 N.E.2d at 1101 (citing *Consolidation Coal Co. v. Bucyrus-Erie Co.*, 89 Ill. 2d 103, 117-18, 432 N.E.2d 250, 256 (1982), *People v. Adam*, 51 Ill. 2d 46, 48, 280 N.E.2d 205, 207 (1972)). This bar on disclosure has been extended to communications with attorneys that occur through agents. *People v. Ryan*, 40 Ill. App. 2d 352, 356, 189 N.E.2d 763, 765 (Ill. App. Ct. 1963), *rev'd on other grounds*, 30 Ill. 2d 456, 197 N.E.2d 15 (1964) (citing 58 Am. Jur. Witnesses § 502).

Therefore, the City denies your request for “all correspondence (concerning the electoral board) of any method to and from any of the following persons on the subject . . . Rick Bertinetti, City Attorney [and] Daniel Schuering, Electoral Board Attorney and/or his partners or employees . . .” under Section 7(1)(m) of the Act, as your request seeks “communications between [the City] and an attorney . . . representing the public body that would not be subject to discovery in litigation . . .” 5 ILCS 140/7(1)(m).

With respect to the remainder of your requests, the City estimates that it will require **thirty-five (35) working days** to respond to your requests. The City will not be waiving fees to produce responsive documents, and estimates that the **fees assessed will total \$200.00**. Pursuant to Section 3.1(a) of the Act, the City has elected to require payment of those fees prior to production of responsive documents. *Id.* at 3.1(a).

With respect to the denial contained herein, you are hereby notified pursuant to Section 9(a) of the Act that you have the right to have this decision reviewed by the Public Access Counselor. Her contact information is as follows: Ms. Sarah Pratt, Public Access Counselor, Office of the Attorney General, 500 South Second Street, Springfield, Illinois 62701.

Thank you for your attention to this correspondence. If I may supply you with additional information, please contact me at your convenience.

Very Truly Yours,
Schuering Law Ltd.

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By: XX
Daniel P. Schuering

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Illinois Leaks

February 14, 2017

File: The City of Carlinville, Illinois

Matter: John Kraft Freedom of Information Act Request

Page 3

Cc: Hon. Deanna Demuzio, Mayor

Mr. Richard J. Bertinetti, City Attorney

Ms. Carla Brockmeier, City Clerk/FOIA Officer