



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 21, 2013

Mr. John Kraft
7060 Illinois Highway 1
Paris, Illinois 61914

RE: FOIA Request for Review – 2013 PAC 25511

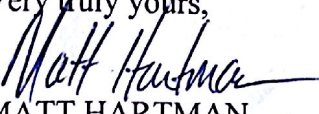
Dear Mr. Kraft:

The Office of the Attorney General, Public Access Bureau, has received the enclosed additional response to your Request for Review from Mr. Mark T. Petty on behalf of Arcola Township (Township). Additional confidential materials have been withheld.

You may, but are not required to, reply in writing to the public body's response. If you choose to reply, you must submit your reply to this office within 7 working days of your receipt of this letter. 5 ILCS 140/9.5(d) (West 2012). Please send a copy of your reply to the Township as well.

If you have questions about this matter, please contact me at the Springfield address below.

Very truly yours,


MATT HARTMAN
Assistant Attorney General
Public Access Bureau

Enclosure

cc: Mr. Mark T. Petty (will receive letter only)
Petty Law Office, P.C.
111 East Main Street
Box 128
Arcola, Illinois 61910

P ETTY LAW OFFICE, P.C.

MARK T. PETTY

ANDREW L. PETTY

August 16, 2013

RECEIVED
ATTORNEY GENERAL

AUG 20 2013

FOIA/OMA

25511
MH

Mr. Matt Hartman
Assistant Attorney General
Public Access Bureau
500 South Second Street
Springfield, IL 62706

Re: FOIA Request for Review - 2013 PAC 25511
My Client - Arcola Township

Dear Sir:

In reply to your letter, I would furnish the following:

1. The Freedom of Information Act requires the production of documents only.

2. As far as it is known, the Township does not have any documents that refer to vacation. They have payroll documents that show the pay that was paid to each person, but as far as we can ascertain, there are no documents that identify when an employee is on vacation, either payroll records, written request, memoranda or anything like that. Customarily the vacations are taken by employees with oral permission from the supervisor. At any rate, let me assure you that we will produce any documents that refer to vacation time.

3. The Freedom of Information Act, section 140/3, is titled "Inspection or copying of public records." The statute provides that "subject to the fee provisions of section 6 each public body shall promptly provide, to any person who submits a request, a copy of any public record required to be disclosed. ." (emphasis supplied)

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4. Section 14/2(c) of 5 ILCS provides that public records include "records prepared by, for or having being used by, received by, in the possession of or in the control of any public body." Once again there is no reference to interrogatories or answering of any questions.

The Township is currently subject to a lawsuit which was filed in the Circuit Court of Douglas County by Mr. Kraft and is filed under case number 13-MR-31. A Special and Limited appearance has been filed to the complaint and the matter is now pending. I enclose a copy of the Complaint, our response and Mr. John Kraft's response.

I presume this review is being done under section 140/9.5 of 5 ILCS which directs the attorney general to review a denial of "a person whose request to inspect or copy a public record is denied by the public body. The position of the Township is there has been no request to review a public record.

Mr. Kraft has also given you an incomplete view of the situation. He has included a copy of my letter of July 29th, but he has not included a copy of my letter of August 1, 2013, which I enclose. We indicate to him that we will give him any public record that he wants, but we are not going to answer any interrogatories or do anything that is not specified by the Freedom of Information Act. I also enclose a privileged communication, which should not be divulged to Mr. Kraft, wherein I had a communication with my client showing that we should produce any records that we have which would show vacation time for the employees of the Township. There were no such records located, so none were sent.

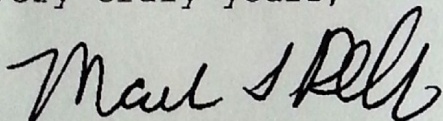
The Township also received and replied to a request from Mr. Kraft sent on July 21st. The actual request that Mr. Kraft refers to was dated on July 22, not July 30th. He was asking for credit card receipts from 2011 and I enclose a copy. The clerk responding thought that we had already produced these documents with a previous request in April. You will note that these April requests (Exhibit A and Exhibit B attached to the Complaint) ask for copies of credit card statements since January 1, 2012 and also copies of all gas charge card statements since January 1, 2012. The Township employee that was responding believed that we had responded to this request and sent the bills. She thought that the new request was for the same bills, but as you can see it was for bills in 2011 and I attach a copy of the production that we gave once we discovered the problem.

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On another issue, Mr. Kraft never did pay for any of the previous requests, and he hasn't paid for any of the recent requests either. Once he filed the lawsuit (13-MR-31) he belatedly sent a check for an amount, but it was less than the amount that he was billed. I sent the check back to him because we are involved in a litigation. Mr. Kraft has made various additional requests. However, we would take the position that any requests that deal with the issues involved with the lawsuit, do not need to be replied to, until the litigation is completed. The only appropriate communication would be through discovery.

I hope this replies to this inquiry and if you require anything further please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark T. Petty". The signature is stylized with a large, looped "M" and a cursive "Petty".

Mark T. Petty

MTP/al

Encs.