



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 2, 2014

Mr. Kirk Allen
PO Box 593
Kansas, Illinois 61933

RE: FOIA Request for Review – 2014 PAC 30665

Dear Mr. Allen:

The Public Access Bureau has received the enclosed response to your Request for Review from the Attorneys for the College of DuPage. Additional confidential materials provided to the Public Access Counselor 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 College, as well.

If you have questions about this matter, please contact me at (217) 524-7958.

Very truly yours,

A handwritten signature in cursive script that reads "Shari L. West".

SHARI L. WEST
Assistant Attorney General
Public Access Bureau

Enclosure

cc: Mr. Kenneth Florey, Esq.
Robbins-Schwartz
OBO College of DuPage
55 West Monroe, Suite 800
Chicago, Illinois 60603-5144

Robbins Schwartz

55 West Monroe, Suite 800 | Chicago, IL 60603-5144

RECEIVED KENNETH M. FLOREY
ATTORNEY GENERAL kflore@robbins-schwartz.com

August 26, 2014

Ms. Shari L. West
Assistant Attorney General
Office of the Illinois Attorney General
Public Access Bureau
500 South Second Street
Springfield, IL 62706

AUG 27 2014

FOIA/OMA

VIA OVERNIGHT DELIVERY

Re: FOIA Request for Review – 2014 PAC30665

Dear Ms. West:

Please be advised that this office is one of the legal representatives for the College of DuPage (the "College"). The College has asked that we respond to the above-referenced Request for Review on its behalf. As such, this correspondence serves as the College's response to your August 14, 2014 letter, which the College received on August 18, 2014.

Upon reviewing your letter and the enclosures, we note that you have a complete copy of the responsive records, some with redactions, that the College provided to Mr. Allen. Per your request, we are enclosing for your confidential review copies of the responsive records without redactions. These documents should not be provided to Mr. Allen.

You have specifically asked the College to provide a written explanation of the asserted 7(1)(b) exemption in the College's denial, and to confirm whether or not the College has provided Mr. Allen with documents responsive to his request for membership information. For ease of reference, Mr. Allen requested the following records from the College:

1. Copy of all payments to Max McGraws Wildlife Foundation for the last 5 years.
2. Copy of all invoices pertaining to payments to Max McGraws Wildlife Foundation for the last 5 years.
3. Copy of all Membership documents provided from Max McGraws Wildlife Foundation for the last 5 years.

As a general response to the Request for Review, please be advised that all public records responsive to Mr. Allen's requests were provided by the College. While redactions were made to some of the responsive records, no public records were withheld in their entirety.

A. Information Exempt from Disclosure Under FOIA Section 7(1)(b)

FOIA Section 7(1)(b) provides that the following shall be exempt from disclosure and copying: "[p]rivate information, unless disclosure is required by another provision of the Act, a State or federal law or court order." 5 ILCS 140/7(1)(b). Private information under FOIA means unique identifiers including, among other things, financial information, individuals' home address, personal telephone numbers and individual's signatures.

As explained in the College's response to Mr. Allen's FOIA request, the College redacted home addresses, account numbers, and signatures. Specifically, the College redacted the following information from the responsive records: (1) Dr. Breuder's home address; (2) all of the College's financial account numbers; and (3) signatures of Mary Ann Millush, the College's Director of Legislative Relations and Special Assistant to the President, and Monica Miller, Administrative Assistant to the President. College President Dr. Robert Breuder's signature was not redacted from the responsive records, as his signature appears on many public documents. Home addresses are included in the definition of "private information" under FOIA. See 5 ILCS 140/2(c-5). Unique identifiers are also specifically referenced in FOIA Section 2(c-5). *Id.* The College asserts that all financial account numbers specific to the College constitute unique identifiers that should not be released to the public. The College also asserts that an individual's signature is a unique identifier that should not be released to the public. We note that the PAC has redacted the signatures of its Assistant Attorney General's from all of the pre-authorization decisions available on its website.

For the above reasons, the College properly redacted home addresses, financial account numbers, and signatures from the responsive records provided to Mr. Allen.

B. Membership Information

Mr. Allen is simply incorrect in his statement that the College did not provide him with membership information. A review of the College's FOIA response letter shows that it did not state that there were no records responsive to this part of his request. Indeed, membership information is included within the records previously provided to Mr. Allen.

FOIA does not require a public body to interpret, explain or advise a requester as to the meaning or significance of a public record. See 5 ILCS 140/3.3. Notwithstanding this, and only for purposes of the College's response to the Request for Review, please be advised that the "annual individual contribution" referenced in the responsive records is evidence of Dr. Breuder's membership with Max McGraws Wildlife Foundation. Please further be advised that Dr. Breuder, individually, and not the College or Dr. Breuder in his official capacity as President, is a member of Max McGraws Wildlife Foundation. The College has provided Mr. Allen with all public records responsive to his request for membership documents.

C. Further Response by the College Regarding Other Information Redacted From the Records Provided to Mr. Allen

Although not specifically addressed in your August 14, 2014 letter to the College, we note in Mr. Allen's August 4, 2014 email to your office that he also takes issue with the following statement in the College's response:

Please be advised that the College has not included information related to Max McGraws Wildlife Foundation that does not pertain to the transaction of the College's public business, as such does not constitute "public record" information as defined by FOIA.

This statement refers to other redacted information [not information redacted pursuant to FOIA Section 7(1)(b)] contained within the responsive records provided to Mr. Allen that do not constitute payments made by the College to Max McGraws Wildlife Foundation. Mr.

Robbins Schwartz

Ms. Shari L. West

August 26, 2014

Page 3

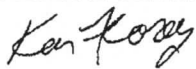
Allen's FOIA request, submitted to the College, sought "payments" and "invoices pertaining to payments" to Max McGraws Wildlife Foundation. As noted above, Dr. Breuder, in his individual capacity, is a member of Max McGraws Wildlife Foundation. Neither the College, nor Dr. Breuder in his official capacity as President, is a member of this Foundation. As such, there are charges and portions of various invoices that the College did not pay for. Any charges or portions of an invoice that was not paid by the College are not only non-responsive to Mr. Allen's request, but do not pertain to the transaction of the College's public business and, therefore, do not constitute "public record" information as defined by FOIA. For example, if a fee was paid directly by Dr. Breuder from his personal account, and he did not request payment by the College or reimbursement from the College, this payment does not pertain to the transaction of College business and it was redacted from the responsive records. In reviewing the unredacted records provided for your confidential review, you will note several line items, amounts, etc. that were redacted from the records provided to Mr.

Allen because they do not represent items or amounts paid for by the College.

If you have any questions, please feel contact me.

Very truly yours,

ROBBINS SCHWARTZ



By: Kenneth M. Florey

Enclosure(s)

Unredacted Records Responsive to Mr. Allen's FOIA Request

1100.14403

cc: Barb Mitchell, FOIA Officer, College of DuPage
Nanci N. Rogers