



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 23, 2015

Via electronic mail

Mr. Jim Tucker
northhenderson@gmail.com

Via electronic mail

Ms. Joyce Tucker
vnhrecords@aol.com

Ms. Nancy Cash, FOIA Officer
Village of North Henderson
PO Box 101
North Henderson, Illinois 61466

RE: FOIA Request for Review – 2015 PAC 33825; 33837; 33838

Dear Mr. Tucker, Ms. Tucker, and Ms. Cash:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014). This office has received three Requests for Review concerning identical redactions of similar information; accordingly, we have consolidated these matters for response and will refer to them collectively as the "Requests for Review." For the reasons that follow, the Public Access Bureau concludes that the Village of North Henderson (Village) improperly redacted records responsive to Mr. Jim Tucker's February 19, 2015, request and Ms. Joyce Tucker's January 7, 2015, and February 6, 2015, requests.

On January 7, 2015, Ms. Tucker submitted a FOIA request to the Village seeking copies of all December, 2014, Village bank statements. On January 14, 2015, the Village provided redacted copies of the bank statements without asserting any exemptions for the redactions. On February 6, 2015, Ms. Tucker submitted a FOIA request to the Village seeking copies of all January, 2015, Village bank statements. On February 13, 2015, the Village provided redacted copies of the bank statements without asserting any exemptions for the redactions. Finally, on February 19, 2015, Mr. Tucker submitted a FOIA request to the Village

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seeking copies of all December, 2014, and January, 2015, bank statements. On February 25, 2015, the Village provided copies of the records but redacted account numbers, without asserting any exemptions for those redactions. The Requests for Review contest the Village's redaction of its bank account numbers.

This office forwarded the Requests for Review to the Village and asked it to provide a detailed explanation of the applicability of any applicable exemptions. On March 19, 2015, the Village responded to all three matters stating that it was "advised from [its] village attorney to redact account numbers on bank statements."¹

On that same date, Mr. Tucker replied to the Village's response asserting that Village bank account numbers cannot be considered personal or private. On March 22, 2015, Ms. Tucker replied to the Village's response also asserting that Village bank account numbers cannot be considered personal or private.²

DETERMINATION

All public records in the possession or custody of a public body are "presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2012); *see also Southern Illinoisan v. Illinois Dept. of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 2012).

Section 9(a) of FOIA

Initially, we note that section 9(a) of FOIA (5 ILCS 140/9(a) (West 2012)) provides, in pertinent part:

(a) Each public body denying a request for public records shall notify the requester in writing of the decision to deny the request, ***the reasons for the denial, including a detailed factual basis for the application of any exemption claimed***, and the names and titles or positions of each person responsible for the denial. (Emphasis added.).

¹E-mail from Nancy Cash to Christopher Boggs (March 19, 2015).

²E-mail from Joyce Tucker to Public Access (March 19, 2015).


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The Village's responses failed to identify any relevant exemptions or provide a detailed factual basis for the application of any exemptions. Accordingly, this office concludes that the Village improperly responded to Mr. Tucker's February 19, 2015, request and Ms. Tucker's January 7, 2015, and February 6, 2015, requests. This office reminds the Village of its obligation to fully comply with the requirements of FOIA in future responses to FOIA requests.

Further, although section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2013 Supp.), as amended by Public Act 98-695, effective July 3, 2014) permits a public body to redact "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order[.]" that exemption does not apply to a public body's bank account numbers. Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2012), as amended by Public Acts 98-1129, effective December 3, 2014; 98-806, effective January 1, 2015) defines "private information" as "unique identifiers, including a person's * * * *personal* financial information[.]" (Emphasis added.) The Public Access Bureau has recently determined that a public body's financial information does not constitute "personal financial information" that is exempt from disclosure pursuant to section 7(1)(b) of FOIA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 30238, issued April 15, 2015. Accordingly, this office concludes that the Village improperly redacted its bank account numbers from the bank statements.

In accordance with the conclusions expressed in this letter, this office directs the Village to disclose to Mr. Tucker and Ms. Tucker the requested bank account numbers. The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. If you have any questions, please contact me at the Springfield address listed on the first page of this letter. This letter shall serve to close these matters.

Very truly yours,


CHRISTOPHER R. BOGGS
Assistant Attorney General
Public Access Bureau

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