



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 22, 2017

Via electronic mail
Mr. Daniel P. Schuering
Schuering Law, Ltd.
P.O. Box 9622
Springfield, Illinois 62791-9622
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RE: FOIA Request for Review – 2017 PAC 46424

Dear Mr. Schuering:

The Public Access Bureau has received the enclosed Request for Review of the response by the City of Carlinville (City) to a January 16, 2017, Freedom of Information Act (FOIA) request submitted by Mr. John Kraft. We have determined that further action is warranted.

On January 16, 2017, Mr. Kraft submitted a multi-part FOIA request to the City seeking:

1. Copy of recordings of all electoral board meetings in the past 60 days
2. Copy of the Nominating Petitions for the upcoming Consolidated Election to be held on April 4, 2017 for the following candidates:
Carla Brockmeier, Candidate for City Clerk
Jody Reichman, Candidate for Treasurer
Doug Downey, Candidate for Alderman, Ward 3
Sarah Oswald, Candidate for Alderman, Ward 4
3. Copy of all correspondence (concerning the electoral board) of any method to and from any of the following persons on the subject:
Carla Brockmeier, City Clerk
Deanne Demuzio, Mayor
Rick Bertinetti, City Attorney

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Daniel Schuering, Electoral Board Attorney and or his
partners or employees
Tim Coonrod, Electoral Board Chairman
Joseph Direso, Electoral Board member

4. Copy of all agendas, minutes, and public notices (IE: newspaper ads) of all Electoral Board meetings, including the meeting at Mr. Bertinetti's private office and the Executive Session meeting held on December 28, 2016 prior to the open meeting on the same evening.¹

On February 14, 2017, the City's attorney responded by asserting that Mr. Kraft's FOIA request was a request for records to be used for a **commercial purpose**. The City estimated that it would require 35 business days to respond to Mr. Kraft's request and estimated that the fees for producing responsive records would total \$200.00. The City also denied Mr. Kraft's requests for correspondence by Rick Bertinetti and Daniel Schuering concerning the electoral board pursuant to section 7(1)(m) of FOIA (5 ILCS 140/7(1)(m) (West 2015 Supp.), as amended by Public Act 99-642, effective July 28, 2016). On February 15, 2017, this office received Mr. Kraft's Request for Review contesting the City's response to his FOIA request.

As required under section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2014)), **please provide a detailed legal and factual basis for the City's contention that Mr. Kraft's FOIA request constitutes a request for records to be used for a commercial purpose**. In your response, please clarify whether the City asked Mr. Kraft to specify the purpose of his FOIA request in order to determine whether the request was a commercial request. If so, please provide a copy of Mr. Kraft's response to the City's request. If not, please explain how the records requested by Mr. Kraft will be used by him "in any form for sale, resale, or solicitation or advertisement for sales or services." 5 ILCS 140/2(c-10) (West 2015 Supp.). In addition, please provide unredacted copies of all of the records that the City asserts are exempt under section 7(1)(m) of FOIA for our confidential review along with a detailed legal and factual basis for that assertion.

As we review this matter, we will advise you if we require additional information. If you believe that other documents or information would help us as we review these issues, you may submit additional records or affidavits with the requested information.

This information must be submitted to our office within seven (7) business days after receipt of this letter. Under FOIA, "[t]he Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing[.]" 5 ILCS 140/9.5(d) (West 2014). **If you claim that any portion of your written response is confidential, please send two versions of your response**

¹FOIA Request from John Kraft to Carla Brockmeier, [City Clerk], [City of Carlinville] (January 16, 2017).

