



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 14, 2018

PUBLIC ACCESS OPINION 18-002
(Request for Review 2017 PAC 50286)

FREEDOM OF INFORMATION ACT:
Disclosure of Names of
Municipal Water Account Holders

Ms. Debbie Stuck
Registration Specialist
Troy School District 30C
5800 West Theodore Street
Plainfield, Illinois 60586

Mr. Christopher Regis
Interim Corporation Counsel
City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432-4158

Dear Ms. Stuck and Mr. Regis:

This is a binding opinion issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2016)). For the reasons discussed below, this office concludes that the City of Joliet (City) violated the requirements of FOIA by redacting non-exempt information from the record furnished in response to Ms. Debbie Stuck's October 17, 2017, FOIA request.

BACKGROUND

On October 17, 2017, Ms. Stuck, on behalf of Troy Community Consolidated School District 30C (District), submitted a FOIA request to the City seeking a copy of the water

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bill associated with a specified address.¹ On October 19, 2017, the City furnished a copy of the requested water bill but redacted the customer's name, the customer's mailing address, and the account number as "private information," citing section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2016), as amended by Public Acts 100-026, effective August 4, 2017; 100-201, effective August 18, 2017).² The service address was not redacted from the bill. On October 30, 2017, the Public Access Bureau received a Request for Review from Ms. Stuck disputing the City's redaction of the name of the account holder.³ The Request for Review indicates that the District utilizes FOIA "to help discern who lives at a Troy school district address."

On November 7, 2017, the Public Access Bureau sent a copy of the Request for Review to the City and asked it to provide an unredacted copy of the water bill for this office's confidential review together with a detailed explanation of the factual and legal bases for the applicability of section 7(1)(b) of FOIA to the redactions.⁴ On November 13, 2017, the City furnished the requested record and a written response.⁵ On November 22, 2017, the Public Access Bureau forwarded a copy of the City's written response to Ms. Stuck.⁶ Ms. Stuck replied on November 27, 2017, and reiterated that the District is contesting only the redaction of the customer's name from the bill.⁷

¹Public Records Request submitted to City of Joliet by Debbie Stuck (October 17, 2017).

²E-mail from Christa M. Desiderio, City Clerk/FOIA Officer, City Clerk's Office, [City of Joliet], to Debbie [Stuck] (October 19, 2017).

³E-mail from Debbie Stuck, Registration Specialist, Troy District Office[, Troy School District 30C], to Public Access [Bureau, Office of the Attorney General] (October 30, 2017).

⁴Letter from Leah Bartelt, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Christa M. Desiderio, City Clerk/FOIA Officer, City of Joliet (November 7, 2017). This letter also asked for responses to three other Requests for Review submitted by Ms. Stuck which concern similar FOIA denials (file Nos. 2017 PAC 50294, 2017 PAC 50295, and 2017 PAC 50296); however, those matters are not addressed in this opinion.

⁵Correspondence from Christopher Regis, Interim Corporation Counsel, City of Joliet, to Leah Bartelt, Assistant Attorney General (November 13, 2017).

⁶Letter from Leah Bartelt, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Debbie Stuck, Registration Specialist, Troy School District 30C (November 22, 2017).

⁷Letter from Debbie Stuck, Registration Specialist, Troy CCSD 30C, to Leah Bartelt, Assistant Attorney General, Public Access Bureau (November 27, 2017).

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On December 29, 2017, the Public Access Bureau extended the time within which to issue a binding opinion in this matter by 30 business days, to February 14, 2018, pursuant to section 9.5(f) of FOIA.⁸

ANALYSIS

"All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 (West 2016). Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2016)) further provides: "Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act." The exemptions from disclosure contained in section 7 of FOIA are to be narrowly construed. *See Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

The record in question is a utility bill that the City sent to a customer for municipal water services. The City redacted the customer's name from the bill pursuant to section 7(1)(b) of FOIA, which exempts from disclosure "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order." Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2016)) defines "private information" as:

[U]nique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

In its response to this office, the City argued that "[t]his information is private information within the definition of the statute, as it is personal financial information, as well as an individual's home address. In order to maintain corporate integrity, as well as protect the personal information of citizens, these redactions are necessary."⁹

⁸Letter from Leah Bartelt, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Debbie Stuck, Registration Specialist, Troy School District 30C, and Christopher Regis, Interim Corporation Counsel, City of Joliet (December 29, 2017).

⁹Correspondence from Christopher Regis, Interim Corporation Counsel, City of Joliet, to Leah Bartelt, Assistant Attorney General (November 13, 2017).

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The definition of "private information," however, in section 2(c-5) does not include names among the "unique identifiers." Moreover, this office rejected a public university's argument that names of students enrolled at a public university are exempt from disclosure pursuant to section 7(1)(b) of FOIA:

The examples of "unique identifiers" cited in section 2(c-5) include information, such as a social security number, that is alone sufficient to identify a particular individual, as well as information which is both unique to an individual and of a type in which there is a significant personal privacy interest, such as medical or financial records. Names are not specifically included in the definition of "private information," and a name is not ordinarily sufficiently unique to identify a specific individual because many persons have the same name. Ill. Att'y Gen. Pub. Acc. Op. No. 12-003, issued January 18, 2012, at 7.

In support of this construction of the language of section 2(c-5) of FOIA, this office cited *Lieber*, 176 Ill. 2d at 411-12, in which the Illinois Supreme Court rejected a public university's argument that it could withhold the names of accepted freshman students pursuant to the FOIA's "personal privacy" exemption.¹⁰ The *Lieber* Court characterized names as "basic identification," adding that construing names as exempt from disclosure under FOIA would yield absurd results such as depriving a member of the public of the "right to learn the names of officials they had placed in office," or the ability to "confirm that the doctor who was about to perform surgery on him was actually licensed to practice medicine." *Lieber*, 176 Ill. 2d at 412.

This office further quoted *Lieber* for its explanation that "[w]here the legislature intended to exempt a person's identity from disclosure, it did so explicitly[.]" (*Lieber*, 176 Ill. 2d at 412), and gave examples of specific FOIA exemptions that allowed withholding of identity, such as the "identity of a confidential source" and information concerning school disciplinary cases that would "reveal the identity of the student." (Emphasis added.) Ill. Att'y Gen. Pub. Acc. Op. No. 12-003, at 7 (citing 5 ILCS 140/7(1)(d)(iv), (1)(j)(iii) (West 2010), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011; 97-452, effective August 19, 2011). Accordingly, this office concluded that "[s]ection 7(1)(b) exempts only private information, and nothing in that definition or in reading FOIA as a whole suggests

¹⁰The "personal privacy" exception was previously codified as section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 1994)). With the adoption of Public Act 96-542, effective January 1, 2010, which added the "private information" exemption as section 7(1)(b), the "personal privacy" exemption was amended and recodified as section 7(1)(c) (5 ILCS 140/7(1)(c) (West 2010)).

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that a person's name, or basic identification, is private information." Ill. Att'y Gen. Pub. Acc. Op. No. 12-003, at 7.

Moreover, section 2.5 of FOIA (5 ILCS 140/2.5 (West 2016)) provides that "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public." Further, article VIII, section 1(c) of the Illinois Constitution of 1970 provides that "records of the obligation, receipt and use of public funds of the State, units of local government and school districts are public records available for inspection by the public according to law." Public utility bills relate to municipalities' receipt of public funds for utility services. Thus, the requested information clearly relates to the City's receipt of public funds.

Even assuming, for the sake of argument, that the names of utility customers constituted "personal financial information" under the definition of "private information" in section 2(c-5) of FOIA, the more specific disclosure requirements of section 2.5 of FOIA would prevail. See *Abruzzo v. City of Park Ridge*, 231 Ill. 2d 324, 346 (2008) ("When a general statutory provision and a more specific one relate to the same subject, we will presume that the legislature intended the more specific statute to govern."). Section 2.5 of FOIA relates to a single category of records, those concerning the obligation, receipt and use of public funds, whereas "private information" is defined to include various types of unique identifiers. Because bills for water services are expressly subject to disclosure under section 2.5, the customer names and service addresses on those bills are not "personal financial information" as that phrase is used in section 2(c-5). Accordingly, this office concludes that the City has not sustained its burden of demonstrating that the name of the recipient of the water bill is exempt from disclosure pursuant to section 7(1)(b) of FOIA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the available information, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

- 1) On October 17, 2017, Ms. Debbie Struck, on behalf of Troy Community Consolidated School District 30C, submitted a FOIA request to the City of Joliet seeking a copy of a water bill for a specified address.
- 2) On October 19, 2017, the City furnished a copy of the requested bill with the customer's name, the customer's mailing address, and the account number redacted pursuant to section 7(1)(b) of FOIA.

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3) On October 30, 2017, the Public Access Bureau received a Request for Review from Ms. Stuck contesting the redaction of the customer's name from the bill. The Request for Review was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2016)).

4) On November 7, 2017, the Public Access Bureau sent a copy of the Request for Review to the City and asked it to provide an unredacted copy of the water bill for this office's confidential review. This office also asked the City to provide a detailed explanation of the factual and legal bases for the applicability of section 7(1)(b) to the redaction.

5) On November 13, 2017, the City furnished a copy of the unredacted utility bill and a written explanation asserting that section 7(1)(b) permitted redaction of the customer's name because it was personal financial information.

6) On November 22, 2017, the Public Access Bureau forwarded a copy of the City's response to Ms. Stuck; she replied on November 27, 2017.

7) On December 29, 2017, the Public Access Bureau extended the time within which to issue a binding opinion in this matter by 30 business days, to February 14, 2018, pursuant to section 9.5(f) of FOIA. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

8) Section 7(1)(b) of FOIA exempts from disclosure "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order." Section 2(c-5) of FOIA further defines "private information" as "unique identifiers," including several specific types of information about a person, including "personal financial information."

9) Section 2(c-5) does not expressly list a person's name as a "unique identifier." Furthermore, where the legislature has intended to exempt a person's identity from disclosure under FOIA, it has done so explicitly. Therefore, nothing in section 7(1)(b) or FOIA as a whole suggests that a person's name is private information.

10) Section 2.5 of FOIA states that "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records." Article VIII, section 1(c) of the Illinois Constitution of 1970 also provides that "records of the obligation, receipt and use of public funds of the State, units of local government and school districts are public records available for inspection by the public according to law." Because water bills relate to the City's receipt of public funds for water services, the name of the customer who receives a water bill is expressly subject to disclosure under section 2.5. As a

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result, a customer's name cannot be considered "personal financial information" as that phrase is used in section 2(c-5) of FOIA.

11) Accordingly, the City has not sustained its burden of demonstrating that the customer's name on the water bill requested by Ms. Stuck is exempt from disclosure pursuant to section 7(1)(b) of FOIA.

Therefore, it is the opinion of the Attorney General that the City's response to Ms. Stuck's Freedom of Information Act request violated the requirements of FOIA. Accordingly, the City is directed to take immediate and appropriate action to comply with this opinion by disclosing to Ms. Stuck a revised copy of the water bill displaying the customer's name.

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2016). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review in the Circuit Court of Cook or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Ms. Debbie Stuck as defendants. *See* 5 ILCS 140/11.5 (West 2016).

Very truly yours,

LISA MADIGAN
ATTORNEY GENERAL

By:



Michael J. Luke
Counsel to the Attorney General

CERTIFICATE OF SERVICE

Neil P. Olson, Deputy Public Access Counselor, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 18-002) upon:

Ms. Debbie Stuck
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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Springfield, Illinois on February 14, 2018.



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