



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 7, 2021

Via electronic mail
Ms. Tracy Chong
[REDACTED]

Via electronic mail
Ms. Michelle E. Brooks
Assistant City Attorney
City of Urbana Legal Division
400 South Vine Street
Urbana, Illinois 60801
mebrooks@urbanaillinois.us

RE: FOIA Request for Review – 2020 PAC 62648

Dear Ms. Chong and Ms. Brooks:

Pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2018)), this office received a Request for Review in which Ms. Tracy Chong alleged that the City of Urbana (City) improperly responded to her April 15, 2020, FOIA request by treating her as a recurrent requester. In its May 1, 2020, response to this office's request for an explanation of the City's handling of Ms. Chong's FOIA request, the City acknowledged that Ms. Chong had not submitted the requisite number of FOIA requests to qualify as a recurrent requester under section 2(g) of FOIA (5 ILCS 140/2(g) (West 2018)).¹ The City's acknowledgment that it improperly treated Ms. Chong's April 15, 2020, e-mail as a request submitted by a recurrent requester resolves this matter.

¹Section 2(g) of FOIA defines "Recurrent Requester" as:

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. (Emphasis added.)

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The Public Access Counselor also is charged with providing advice and education to the public and public bodies. Because the parties' submissions to this office dispute whether certain e-mails to the City were attributable to Ms. Chong as new FOIA requests, for purposes of determining whether she qualified as a recurrent requester, this office addresses those e-mails below.

This office's review of Ms. Chong's various e-mails to the City confirms that her April 10, 2020, e-mail, which the City designated as a new FOIA request (2020-F-█), was a follow-up to her March 3, 2020 (2020-F-█) FOIA request. In her March 3, 2020 e-mail, Ms. Chong requested (in pertinent part) "[a]ll records and documents related to the hiring and resignation of Todd Rent."² In her April 10, 2020, e-mail, Ms. Chong wrote:

Thanks for sending the documents. However, I noticed that some documents are missing. Among them- the letters of reference for Todd Rent when he was hired, letters of reference for Todd rent from anyone representing the City of Urbana for his new job, as well as any communication from Todd Rent officially announcing his resignation to his supervisor/mayor/relevant city staff. If you could send these over and any other documents that were missed the first time, that would be great.^[3]

The City's response to this office characterized Ms. Chong's April 10, 2020, e-mail as a "separate and almost duplicate request"⁴ because it was received "almost one month after Urbana had satisfied its FOIA obligation to respond."⁵ However, that e-mail did not request new or additional documents outside the scope of the March 3, 2020, request and it plainly asserted that the response to that request had been incomplete and requested that the City disclose additional responsive records. Accordingly, the April 10, 2020, e-mail was follow-up correspondence to 2020-F-█ rather than a new FOIA request.

²FOIA request from Tracy Chong to [City Clerk] (March 3, 2020).

³E-mail from Tracy Chong to James Simon, City Attorney, City of Urbana (April 10, 2020).

⁴Letter from Curt Borman, Assistant City Attorney, City of Urbana, to Matt Hartman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General (May 1, 2020) at 3.

⁵Letter from Curt Borman, Assistant City Attorney, City of Urbana, to Matt Hartman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General (May 1, 2020) at 4.

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Because the April 14, 2020, e-mail clearly requested information about a different incident (on April 13, 2020) than the April 13, 2020, FOIA request (which pertained to an incident on April 11, 2020), the City appears to have properly construed it as a new FOIA request (2020-F [REDACTED]).

This office requests that the City and Ms. Chong be mindful of the above-described distinction between follow-up correspondence concerning responses to FOIA requests and new FOIA requests that seek additional records. This letter serves to close this matter. If you have any questions, please contact me at the Springfield address on the first page of this letter or at (217) 782-9054.

Very truly yours,
Suzanne Dennis Borland
SUZANNE DENNIS BORLAND
Assistant Attorney General
Public Access Bureau

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