



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 6, 2017

Via electronic mail

Mr. Michael Carroll
Local Labs FOIA Desk
Local Labs Media Services
2118 Plum Grove Road #190
Rolling Meadows, Illinois 60008
foia@locallabs.com

RE: FOIA Request for Review – 2017 PAC 49876

Dear Mr. Carroll:

This determination letter is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2016)). For the reasons set forth below, the Public Access Bureau concludes that no further action on this matter is warranted.

On September 15, 2017, you submitted a FOIA request to the Cook County Clerk's Office (Clerk's Office) seeking copies of records containing marriage and divorce records for Cook County for the past 20 years, and birth records for the past 5 years. On September 15, 2017, the Clerk's Office denied your request in its entirety pursuant to section 7(1)(a) of FOIA (5 ILCS 140/7(1)(a) (West 2016)), which exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." The Clerk's Office cites the Vital Records Act (VRA) (410 ILCS 535/1 *et. seq.* (West 2016)) as its basis for asserting the section 7(1)(a) exemption. On October 2, 2017, you filed this Request for Review contesting the denial.

Section 24 of the VRA (410 ILCS 535/24 (West 2016)), states "[i]t is unlawful for any custodian to permit inspection of, or to disclose information contained in, vital records, or to copy or permit to be copied, all or part of any such record except as authorized by this Act or regulations adopted pursuant thereto." Under the VRA, "vital records" means records of *births*, *deaths*, *fetal deaths*, *marriages*, *dissolution of marriages*, and data related thereto." 410 ILCS 535/1 (West 2016) (Emphasis added).

Mr. Michael Carroll
October 6, 2017
Page 2

Correspondingly, an Administrative Code provision that implements the VRA, provides the following:

- (a) Any custodian of vital records may furnish, upon the terms or conditions as he or she may prescribe under the Act [VRA], the Adoption Act, and this Part, when deemed in the public interest and *not for purposes of commercial solicitation or private gain*, copies of vital records or data from these records: to public agencies administering health, welfare, safety, law enforcement, or public assistance programs; and to private agencies, approved by the State Registrar, such as hospitals, *public news media*, abstract and title companies, and credit bureaus. (Emphasis added.)
- (b) *Nothing in this Part shall be construed as authorization to permit access to or inspection of the vital records by any person other than the custodians or their employees, nor as authorization to disclose information contained in these records, or copy, or permit to be copied, all or any part of these records*, except as authorized by the Act, the Adoption Act, and this Part. 77 Ill. Adm. Code §500.20, last amended at 24 Ill. Reg. 11882, effective July 26, 2000. (Emphasis added.)

The Public Access Bureau has previously determined that under the plain language of section 24 of the VRA and section 500.20 of title 77 of the Administrative Code, the access to vital records, such as records concerning births, marriage, and divorces, may only be granted to specific entities. *See, e.g.*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 34309, issued July 30, 2015, at 3 (finding a marriage license is exempt from disclosure); Ill. Att'y Gen. PAC Req. Rev. Ltr. 41087, issued April 6, 2016, at 3 (concluding birth certificates are exempt from disclosure).

As cited above, one of the authorized entities to which the Clerk's Office may choose to release vital records is public news media, when a request is not made for the purpose of commercial solicitation. You have asserted that Local Labs Media Services qualifies as media for FOIA purposes.

Section 2(f) of FOIA (5 ILCS 140/2(f) (West 2016)) defines "news media" in relevant part as a "newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format[.]" In the context of self-published websites purporting to be "news media," this office has opined that the statutory

Mr. Michael Carroll
October 6, 2017
Page 3

definition of "news media" requires more than simply disseminating information through a website or e-mail:

Merely disseminating information or criticism electronically through a website, or via e-mail, does not meet the statutory definition of "news media." If it did, then any person who chose to post an opinion or comment on a matter of public interest electronically would become a news medium, which was clearly not the intent of the General Assembly when it enacted the exception. Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, issued December 2, 2016, at 3 (*quoting* Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, issued February 13, 2015, at 4).

In the absence of Illinois law on how to interpret the term "news media," this office has found cases from other jurisdictions interpreting similar statutory definitions to be persuasive. Those cases hold that "an individual or entity that self-publishes information on the Internet generally must demonstrate some adherence to recognized journalistic standards such as editorial oversight or the creation of original content similar to that of traditional media" in order to be considered "news media." Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, at 5. We further observed that "[t]he General Assembly has not expanded the definition in FOIA to include other individuals or entities apart from those traditional media sources and their electronic versions." Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, at 5.

This office has reviewed the Local Labs Media Services website. The Local Labs Media Services' website indicates that it uses technology to gather content, and provides to its subscribers, personalized "commodity news, community calendars and briefs * * * so that you can aim your editors, reporters and photographers at the stories most important to you."¹ Additionally, Local Labs Media Services' website indicates that the cost for some content begins at \$500.00.²

Based on a review of the information on the Local Labs Media Services website, it appears to be seeking the requested records to re-package data from those records and provide content to its paying members – not the public at large. Local Labs Media Services, therefore, lacks the essential components of a "newspaper," "periodical" or "news service" included in FOIA's definition of "news media." Accordingly, this office concludes that Local Labs Media is

¹LOCAL LABS MEDIA SERVICES, <http://www.locallabs.com/locallabs-media-services/#what-we-do> (last visited October 4, 2017).

²LOCAL LABS MEDIA SERVICES, <http://www.locallabs.com/locallabs-media-services/#special-sections> (last visited October 4, 2017).

Mr. Michael Carroll

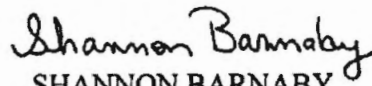
October 6, 2017

Page 4

not "news media" as that term is defined in FOIA. Further, because Local Labs Media Services' sells information derived from the public records through subscriptions, the purpose of your request appears to be for commercial solicitation or private gain. Accordingly, section 24 of the VRA prohibits the Clerk's Office from disclosing the records at issue and, therefore, they are exempt from disclosure pursuant to section 7(1)(a) of FOIA.

For the reasons discussed above, this office has determined that no further action is warranted in this matter. This letter serves to close this file. If you have any questions, you may contact me by mail at the Chicago address listed on the first page of this letter.

Very truly yours,


SHANNON BARNABY
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Public Access Bureau

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cc: *Via electronic mail*
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