



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

October 1, 2019

*Via electronic mail*

Mr. Christopher Hansen

[REDACTED]

[REDACTED]

corruptcu@gmail.com

RE: FOIA Request for Review – 2019 PAC 59241

Dear Mr. Hansen:

On September 30, 2019, the Public Access Bureau received the enclosed response letter from the City of Urbana (City) concerning the above-referenced Request for Review. You may, but are not required to, reply in writing to the City's response. If you choose to reply, you must submit your reply to this office within 7 working days of your receipt of this letter. 5 ILCS 140/9.5(d) (West 2018). Please send a copy of your reply to Mr. Rent as well. Please contact me at (217) 782-1699 or LDraws@atg.state.il.us if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "LEO DRAWS".

LEO DRAWS  
Assistant Attorney General  
Public Access Bureau

Attachment

cc: *Via electronic mail*  
Mr. Todd E. Rent, Sr.  
Human Resources Director  
City of Urbana  
400 South Vine Street  
Urbana, Illinois 61801  
terent@urbanaininois.urs

## Draws, Leo

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**From:** Rent, Todd <terent@urbanaininois.us>  
**Sent:** Monday, September 30, 2019 10:03 PM  
**To:** Draws, Leo  
**Cc:** Brooks, Michelle; Smyth, Charles; Hundley, Wendy  
**Subject:** PAC 59241 / City of Urbana FOIA Request #2019-407 Response to Request for Review  
**Attachments:** PAC Response Hansen 2019-F-407 (INTERNAL EMAILS).pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Leo Draws

Assistant Attorney General

Public Access Bureau

500 South Second Street

Springfield, Illinois 62701

September 30, 2019

Re: FOIA Request for Review -- 2019 PAC 59241 (City of Urbana FOIA 2019-407)

Dear Mr. Draws:

In a letter dated September 19, 2019, you advised the City that Christopher Hanson (Requester) filed a Request for Review of the City's response to a records' request under the Illinois Freedom of Information Act (the "Act"). Specifically, your letter stated that Mr. Hansen contests the City's denial of the requested records under 5 ILCS 140/7 (1)(f). Your letter requested that the City provide an unredacted copy of the responsive records and a detailed written explanation of the factual and legal bases for withholding the requested records. The City sets forth its factual and legal bases for withholding the requested records in the paragraphs below. Also, please find enclosed the requested records in unredacted form.

PLEASE NOTE THAT THE CITY ASSERTS THAT ALL OF THE ATTACHED RECORDS ARE OFFERED FOR CONFIDENTIAL REVIEW BY THE PUBLIC ACCESS COUNSELOR. PLEASE DO NOT RELEASE OR DISSEMINATE THIS INFORMATION TO THE REQUESTOR OR ANYONE OUTSIDE OF THE PUBLIC ACCESS COUNSELOR'S OFFICE.

#### Clarification: Scope of Request for Review

As an initial matter, the City notes that the Request for Review letter stated that the City denied the July 25, 2019 FOIA request ("FOIA-2019-407"), in its entirety. The City's initial response to the requester separated the request into two distinct items. Item 1 addressed the portion of the request that sought "[a]ny and all documents and reports related to the FOIA request [the requester] made to [Urbana Police Chief] Bryant Seraphin on 7-17-2019" and included "any emails that were sent or received by any person concerning the request." Item 2 addressed the portion of the request that sought "[a]ny documents, including emails, related to the 'software issue' experienced by Todd Rent on 7-24-2019 which prevented him from filling the request." The City denied Item 1 under 5 ILCS 140/7 (1)(f). In response to Item 2, the City notified the requester that there were no records responsive to the request. Further, even though it had no obligation to do so under the Act, the City formulated and provided a direct answer to the requester's inquiry.

When the City contacted your office to seek guidance as to whether the Request for Review intended to address both Items 1 and 2, your office clarified that the City need only respond to the withholding of records requested in Item 1. Accordingly, the scope of the City's response will be limited to records withheld under Item 1.

#### Applicable Rules for Determining the Appropriateness of the Asserted Exemptions

In determining the applicable exemption in this matter, the City relied on the guidance provided in the PAC's FOIA Guide for Law Enforcement (Guide). The section below restates the relevant sections of that Guide. Please note that citations have been omitted.

Section 7(1)(f) of Illinois Freedom of Information Act exempts from disclosure "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body." The Guide states that the section 7(1)(f) exemption applies to inter- and intra-agency predecisional and deliberative material and is intended to protect the communications process and encourage frank and open discussion among agency employees before a final decision is made. The Guide notes that while the exemption generally does not extend to purely factual material, Federal courts have construed the scope of the deliberative process exemption to cover factual information that is so inextricably intertwined with a record's deliberative material that disclosure of just the factual material would still reveal the agency's decision-making process. The Guide specifies that only those portions of a predecisional document that reflect the give and take of the deliberative process may be withheld and that a public body that asserts the deliberative process exemption has the burden of establishing what deliberative process is involved, and the role played by the documents in issue in the course of that process.

## Factual and Legal Bases for Redactions

In this section, the City will set forth the factual and legal bases for withholding the requested records. The requested records contain internal emails generated by, to, and amongst City staff pertaining to the FOIA response filed by the requester. Specifically, the emails discuss the gathering of records, the assignment of responsibilities, the assertion of exemptions, and the status of responses. Both the contents of the emails and their metadata, i.e. information regarding when, by whom, and to whom each email was distributed, constitute information that reveals the City's administrative decision-making process. Disclosure of this material would deter the intra-agency dialogue necessary for the efficient and accurate processing of such requests.

## Conclusion

For the reasons noted above, the City respectfully maintains that the redactions made to the requested records are clearly authorized by the language of section 7(1)(f) of the Act. Disclosure of the redacted portions of the requested record would impair the frank and open discussions that the deliberative process exemption exists to protect.

Thank you for your time and attention to this matter. Please let me know if there is any further information you would like me to provide in response to this inquiry.

Respectfully submitted,

Todd

Todd E. Rent, Sr.

Human Resources Director

City of Urbana

(217) 384-2451

[terent@urbanaininois.us](mailto:terent@urbanaininois.us)<mailto:terent@urbanaininois.us>