
City of Urbana FOIA Response 2019-407 (Hansen)

1 message

Rent, Todd <terent@urbanaininois.us>

Fri, Aug 2, 2019 at 4:49 PM

To: Christopher Hansen <corruptcu@gmail.com>

Cc: "Hundley, Wendy" <wmhundley@urbanaininois.us>, "Smyth, Charles" <casmyth@urbanaininois.us>, "Heldman, Cassandra" <heldmacl@urbanaininois.us>

Freedom of Information Act Request
City of Urbana FOIA-2019-407

Dear Requester:

This letter is in response to your Freedom of Information Act (FOIA) request. The Freedom of Information Officer received your request on July 17, 2019 and designated it as FOIA request number 2019-407.

You requested the following records: *"I would like any and all documents and reports related to the FOIA request I made to Bryant Seraphin on 7-17-2019. This should include any emails that were sent or received by any person concerning the request. Please also include any documents, including emails, related to the "software issue" experienced by Todd Rent on 7-24-2019 which prevented him from filling the request..."*

For the sake of clarity, this response has separated your request into the following components:

- **Item 1.** Any and all documents and reports related to the FOIA request I made to Bryant Seraphin on 7-17-2019. This should include any emails that were sent or received by any person concerning the request.

We have reviewed your request for Item 1 and have determined that the above-requested records are currently exempt from disclosure under 5 ILCS 140/7(1)(f) because such records constitutes internal documents generated for the purpose of determining a final agency action (i.e. the FOIA response). This exemption protects the internal deliberative/decision-making process by encouraging frank and open discussion among City employees as they determine the appropriate organizational response to matters.

- **Item 2.** Any documents, including emails, related to the "software issue" experienced by Todd Rent on 7-24-2019 which prevented him from filling the request.

We have reviewed your request for Item 2 and would specify as an initial matter that there are no documents responsive to this request. Further, a public body is under no obligation to create or generate records not previously in existence in response to a request under Illinois FOIA. However, for the sake of transparency, I am happy to disclose that while I was attempting to complete the City's response to your request on July 24th, I had significant difficulty opening and manipulating pdf documents on my office desktop. After struggling with this issue, I decided to continue my efforts to complete the request after business hours from my place of residence. However, once at home, I realized that I neglected to pack my work laptop and as such, would not have access to the Adobe editing software necessary for the completion of the request. At that point, I made the election to email you, the requester, and indicate that the records would be sent by 10:00 am on the following day. The only alternative to proceeding that manner would have required that I return to the office at a late hour in an attempt to complete and send the request before midnight. As you are aware, the records were in fact, sent and the request "filled" by 10:00 a.m. the following day. As I stated in the prior email, I apologize for any inconvenience the delay may have caused.

Please be advised that if you believe any records you are seeking have been wrongfully withheld or redacted, you are entitled to appeal this response. Such an appeal is a "Request for Review" and must be sent to the Public Access Counselor (PAC), at the Illinois Attorney General's Office at 500 South Second Street, Springfield, Illinois, 62706. The phone number is (217) 558-0486. If the PAC denies your appeal, you have the right to judicial review of this decision in the Champaign County Circuit Court. Additionally, I have included a copy of your rights under the Act for your convenience. Should you have any other questions or concerns, please feel free to contact me at the above listed number.

Sincerely,

Todd

Todd E. Rent, Sr.

Human Resources Director

City of Urbana

(217) 384-2451

terent@urbanainlinois.us

§ 11. (a) Any person denied access to inspect or copy any public record by a public body may file suit for injunctive or declaratory relief.

(b) Where the denial is from a public body of the State, suit may be filed in the circuit court for the county where the public body has its principal office or where the person denied access resides.

(c) Where the denial is from a municipality or other public body, except as provided in subsection (b) of this Section, suit may be filed in the circuit court for the county where the public body is

located.

(d) The circuit court shall have the jurisdiction to enjoin the public body from withholding public records and to order the production of any public records improperly withheld from the person seeking access. If the public body can show that exceptional circumstances exist, and that the body is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(e) On motion of the plaintiff, prior to or after in camera inspection, the court shall order the public body to provide an index of the records to which access has been denied. The index shall include the following:

(i) A description of the nature or contents of each document withheld, or each deletion from a released document, provided, however, that the public body shall not be required to disclose the information which it asserts is exempt; and

(ii) A statement of the exemption or exemptions claimed for each such deletion or withheld document.

(f) In any action considered by the court, the court shall consider the matter de novo, and shall conduct such in camera examination of the requested records as it finds appropriate to determine if such records or any part thereof may be withheld under any provision of this Act. The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of this Act. Any public body that asserts that a record is exempt from disclosure has the burden of proving that it is exempt by clear and convincing evidence.

(g) In the event of noncompliance with an order of the court to disclose, the court may enforce its order against any public official or employee so ordered or primarily responsible for such noncompliance through the court's contempt powers.

(h) Except as to causes the court considers to be of greater importance, proceedings arising under this Section shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(i) If a person seeking the right to inspect or receive a copy of a public record prevails in a proceeding under this Section, the court shall award such person reasonable attorneys' fees and costs. In determining what amount of attorney's fees is reasonable, the court shall consider the degree to which the relief obtained relates to the relief sought. The changes contained in this subsection apply to an action filed on or after the effective date of this amendatory Act of the 96th General Assembly.

(j) If the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith, the court shall also impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence. In assessing the civil penalty, the court shall consider in aggravation or mitigation the budget of the public body and whether the public body has previously been assessed penalties for violations of this Act. The changes contained in this subsection apply to an action filed on or after the effective date of this amendatory Act of the 96th General Assembly.

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Human Resources Director

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