



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 31, 2024

Via electronic mail

RE: OMA Request for Review – 2024 PAC 81544

Dear [REDACTED]

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2022), as amended by Public Act 103-069, effective January 1, 2024). For these reasons explained below, the Public Access Bureau has determined that no further action is warranted in this matter.

On April 24, 2024, you e-mailed a FOIA request to Village of South Roxana (Village) Trustee Anna Broadfoot on a gmail.com account, asking her for records from a Facebook page relating to the community. Trustee Broadfoot forwarded the request to the Village's administration and noted: "Individually, I am not a public body under FOIA."¹ The Village's administration indicated to Trustee Broadfoot that it was her responsibility to respond. On May 23, 2024, you submitted a Request for Review alleging that you had received no response after that correspondence between Trustee Broadfoot and the Village's administration. On May 30, 2024, you confirmed to this office that "[t]he FOIA was directed to Trustee Broadfoot, individually."²

Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2022)) provides that "[e]ach **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." (Emphasis added.) Because FOIA applies to public bodies as a whole, the Act requires that "[r]equests for inspection or copies shall be

¹Message from Anna [Broadfoot] to Bob [Coles] (April 25, 2024).

²E-mail from [REDACTED] to [Joshua] Jones (May 30, 2024).

made in writing and **directed to the public body.**" (Emphasis added.) Section 2(a) of FOIA (5 ILCS 140/2(a) (West 2022), as amended by Public Act 103-311, effective July 28, 2023) defines a "public body" as:

[A]ll legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act.

In *Quinn v. Stone*, 211 Ill. App. 3d 809 (1991), the Illinois Appellate Court concluded that individual officers of a public body do not fall within the definition of a "public body" under FOIA. *Quinn*, 211 Ill. App. 3d at 812. In that case, the court upheld the dismissal of a complaint for injunctive relief against a City of Chicago alderman for failing to respond to a FOIA request made of him individually because the alderman was "not the proper recipient" of a FOIA request. *Quinn*, 211 Ill. App. 3d at 812. Based on that precedent, the Public Access Bureau has consistently determined that public officials are not required to respond to FOIA requests directed to them individually. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 70274, issued March 14, 2022 (request for records concerning proposed legislation was improperly directed to individual senator's office, rather than the Illinois Senate).

Because individual public officials are not public bodies, Trustee Broadfoot did not violate FOIA by not responding to the request you directed to her individually. To the extent you seek public records of the Village, you may wish to submit a new request for those records to the Village rather than any trustee individually. This office notes that FOIA defines "public records" as:

[A]ll records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, **having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.** (Emphasis added.)

In your Request for Review, you also asked this office to, among other things, "[d]etermine whether the official's use of a private Facebook account for public business complies with the Local Records Act and the State Records Act."³ The Public Access Counselor's authority to resolve disputes, however, is limited to alleged violations of FOIA and the Open Meetings Act (5 ILCS 120/1 *et seq.* (West 2022)). *See* 15 ILCS 205/7(c)(3) (West 2022). FOIA governs the disclosure of existing public records; unlike the Local Records Act (50 ILCS 205/1 *et seq.* (West 2022)) and State Records Act (5 ILCS 160/1 *et seq.* (West 2022)), it does not govern the retention of records that are not subject to a pending request, nor does it dictate how public bodies are to dispose of records. Accordingly, this office is not authorized to review a public body's compliance with the Local Records Act or State Records Act.

This file is closed. If you have any questions, please contact me at joshua.jones@ilag.gov.

Very truly yours,



JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
Mr. Bob Coles
Chief of Police/City Administrator
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Via electronic mail
The Honorable Anna Broadfoot
Trustee, Village of South Roxana
magones2021@gmail.com

³Letter from [REDACTED] to Office of the Attorney General, Public Access Counselor (transmitted May 23, 2024), at [3].