



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 10, 2021

Via electronic mail
[REDACTED]

RE: FOIA Request for Review – 2021 PAC 66839

Dear [REDACTED]:

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 2018)). For the reasons that follow, the Public Access Bureau concludes that no further action is warranted in this matter.

On January 28, 2021, you submitted a FOIA request to Will County (County) stating:

This request will be for the documents recorded by Will County Board member Debbie Kraulidis, on her designated facebook account titled "Debbie Kraulidis for Will County Board 13". The title of this page communicates intent that it is to be used for communication regarding the Will county board seat for district 13.^[1]

You specified that you were seeking posts made by the account and "associated comments by all members of the public, including all deleted comments, posted between December 7th, 2020 and January 28th 2021 on the" page.² You additionally requested a "[c]opy/screenshot of account settings showing users who have been blocked from posting or communicating on the Facebook page * * * during the same timeline."³ On February 2, 2021, the FOIA officer for the Will

¹E-mail from [REDACTED], FOICH.org, to County Board (January 28, 2021).

²E-mail from [REDACTED], FOICH.org, to County Board (January 28, 2021).

³E-mail from [REDACTED], FOICH.org, to County Board (January 28, 2021).

[REDACTED]
February 10, 2021

Page 2

County Board (Board) responded that the Board possessed no responsive records, as any such records are not under its control and are not public records.

On February 3, 2021, you submitted the above-referenced Request for Review contesting that response. You argue that two binding opinions issued by this office—Ill. Att'y Gen. Pub. Acc. Op. No. 11-006, issued November 15, 2011, and Ill. Att'y Gen. Pub. Acc. Op. No. 16-006, issued August 9, 2016—signify that the records you requested are public records subject to disclosure pursuant to FOIA.

FOIA is intended to ensure public access to "full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act." 5 ILCS 140/1 (West 2018). FOIA requires that "[e]ach public body shall make available to any person for inspection or copying all **public records**." (Emphasis added.) 5 ILCS 140/3(a) (West 2018), as amended by Public Act 101-081, effective July 12, 2019. Section 2(c) of FOIA (5 ILCS 140/2(c) (West 2018)) defines "public records" as "all records * * * **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.)

Your FOIA request concerns the Facebook page of a political candidate for the Board, who was elected and sworn in on December 7, 2020. There is no indication from the Facebook page⁴ or from your Request for Review that the page pertains to the transaction of the County's public business, as opposed to Ms. Kraulidis' political campaign operation. In the binding opinions you cite, this office explained that it is the content of an electronic communication, rather than whether a public body has physical custody of the device or direct control of the method used to send or receive it, that governs whether the message is a public record subject to disclosure pursuant to FOIA. Ill. Att'y Gen. Pub. Acc. Op. No. 11-006, at 5;⁵ Ill. Att'y Gen. Pub. Acc. Op. No. 16-006, at 7. Here, there is no basis from which this office could conclude that the records you seek meet the threshold requirement of "pertaining to the transaction of public business," nor that any such records were prepared by, prepared for, used by, received by, possessed by, or controlled by the County. In particular, because the Facebook

⁴Debbie Kraulidis For Will County Board 13, Facebook, <https://www.facebook.com/Debbie-Kraulidis-For-Will-County-Board-13-101866541353288> (last visited February 5, 2021).

⁵An action for administrative review was filed with respect to this binding opinion, culminating in the Illinois Appellate Court decision *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, ¶38, 992 N.E.2d 629, 638 (2013) ("[T]o qualify as a 'public record' under FOIA, a communication must (1) 'pertain[] to the transaction of public business' and have either been (2) prepared by, (3) prepared for, (4) used by (5) received by, (6) possessed by, or (7) controlled by a public body.").

[REDACTED]
February 10, 2021

Page 3

page is a political page rather than a page maintained by the County, any list of blocked accounts is not a public record subject to disclosure pursuant to FOIA. Accordingly, this office has determined that no further action is warranted in this matter.⁶

This letter serves to close this matter. If you have any questions, please contact me at jjones@atg.state.il.us.

Very truly yours,

[REDACTED]
JOSHUA M. JONES
Deputy Bureau Chief
Public Access Bureau

66839 f no fi war co

cc: *Via electronic mail*
Ms. Beth Adams
Operations Manager, FOIA Officer
Will County Board
302 North Chicago Street
Joliet, Illinois 60432
badams@willcountyllinois.com

⁶This office notes that the Public Access Counselor's authority to resolve disputes is limited to alleged violations of FOIA and the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2018)). *See* 15 ILCS 205/7(c)(3) (West 2018). To the extent this Request for Review raises a legal question concerning a public official's ability to block a constituent on social media, that issue is not governed by FOIA or OMA and therefore is not subject to review by this office.