



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 26, 2024

Via electronic mail

[REDACTED]
[REDACTED]

RE: FOIA Request for Review – 2024 PAC 79906

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 the reasons that follow, the Public Access Bureau concludes that this Request for Review is unfounded.

On January 10, 2024, you submitted a FOIA request (January 2024 request) to the Village of Sugar Grove (Village) seeking all communications between officials or employees of the Village and Crown Community Development from January 10, 2014, through January 10, 2024. In its response, the Village referenced your July 25, 2023, FOIA request (July 2023 request), which sought, among other things, e-mails and written communications exchanged between the Village and Crown Community Development between July 24, 2013, and July 24, 2023. The Village stated that it had responded to that previous request, and that "[i]ncluding the 3,000+ pages of records from 2014-1-10 to 2023-07-24 would be unduly burdensome as a repeated request under section 3(g) [5 ILCS 140/3(g) (West 2022)]."¹ Consequently, the Village stated that it was only including records that had not already been provided in response to your July 2023 request.

Your Request for Review objected to the Village referencing your July 2023 request, since your January 2024 request was a separate request. You later clarified to an Assistant Attorney General via e-mail that your main concern with the Village's response was that the Village modified the period of the request without your approval, despite there being a different scope and time period in the second request.

¹E-mail from Tracey R. Conti, Village Clerk, Village of Sugar Grove, to [REDACTED] (January 25, 2024).

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April 26, 2024

Page 2

Section 3(g) of FOIA provides, in pertinent part, that "[r]epeated requests from the same person for the same records that are unchanged or **identical to records previously provided** or properly denied under this Act shall be deemed unduly burdensome under this provision." 5 ILCS 140/3(g) (West 2022) (Emphasis added.) Under the plain language of section 3(g), a request is an unduly burdensome repeated request if it seeks the same records that a public body has previously provided to the same requester.

The primary objective when construing the meaning of a statute is to ascertain and give effect to the intent of the General Assembly. *DeLuna v. Burciaga*, 223 Ill. 2d 49, 59 (2006). "The most reliable indicator of legislative intent is the statutory language, given its plain and ordinary meaning." *Gaffney v. Board of Trustees of Orland Fire Protection District*, 2012 IL 110012, ¶ 56. However, a reviewing body "has a duty to avoid a construction of the statute that would defeat the statute's purpose or yield an absurd or unjust result." *People v. Latona*, 184 Ill. 2d 260, 269 (1998); *see also Gosnell v. Hogan*, 179 Ill. App. 3d 161, 170 (1989) (statutes should not be interpreted in an "unreasonably technical" manner that is inconsistent "with the obvious legislative intent.").

Although your July 2023 and January 10, 2024, requests are not identical, they both seek communications between the Village and Crown Community Development for extensive and mostly overlapping time frames. The repeated request provision in section 3(g) is intended to alleviate the burden of responding to redundant or duplicative requests for records that a public body already has provided to the same person. It would be absurd to construe section 3(g) of FOIA as requiring a public body to disclose all records that it previously furnished in response to a previous request because of a slight modification to the time frame or content in a subsequent request. Construing section 3(g) as permitting a public body to treat as unduly burdensome those portions of a request that encompass the same records previously provided to the requester, while requiring it to substantively respond to the remaining portions as the Village did in this matter, gives effect to the intent of the General Assembly. Because the Village was not required to provide you with the same records of communications that it had already provided in response to your previous request, the Public Access Bureau has determined that this Request for Review is unfounded.

This file is closed. If you have questions, you may contact me at michael.knight@ilag.gov.

Very truly yours,

[REDACTED]
MICHAEL J. KNIGHT
Assistant Attorney General
Public Access Bureau

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April 26, 2024

Page 3

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cc: *Via electronic mail*
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