



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 25, 2020

Via electronic mail
Mr. Arvin Boddie
Post Office Box 288910
Chicago, Illinois 60628-8910
aboddieattyatlaw@sbcglobal.net

RE: FOIA Request for Review – 2020 PAC 61612

Dear Mr. Boddie:

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 2016)). For the reasons set forth below, the Public Access Bureau concludes that no further action in this matter is warranted.

On January 17, 2020, you submitted a FOIA request to the Illinois Secretary of State's Office seeking printed records consisting of "ALL records, documents, data and/or other information (including ELECTRONICALLY STORED INFORMATION) relating to: 1) Entity Named D'S MULTI COMPLEX; 2) File Number 72264169; 3) Entity Named JOHNSON FUNERAL SERVICES, INC.; and 4) File Number 655988124."¹ On January 22, 2020, the Secretary of State's Office responded that its Business Services Department located the articles of incorporation and an affidavit of compliance for D's Multi Complex which could be obtained for a fee of \$5.00 per record. With respect to Johnson Funeral Services, the Secretary of State's Office stated that it possessed twenty-three records, including articles of incorporation, annual reports, amended annual reports, register agent changes, and involuntary dissolutions and reinstatements, that could be obtained for \$25.00 per record. The total fees amounted to \$585.00. You asked the State's Attorney's Office to reconsider, stating that you represent a not-for-profit organization and that the \$585.00 fee is inconsistent with section 6 of FOIA (5 ILCS 140/6 (West 2018)). The Secretary of State's Office responded that the fee is authorized by the Business Corporation Act (805 ILCS 5/1.01 (West 2018)), and supersedes the fee provisions of FOIA. The Secretary of State's Office also stated that you could schedule an appointment to

¹Freedom of Information Act Request Form submitted by Arvin Boddie, Attorney at Law, to Office of the Illinois Secretary of State (January 17, 2020).

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view the documents for no fee. Your Request for Review asserts that the Secretary of State's Office improperly denied your request by imposing an unreasonable fee.

Section 6(b) of FOIA (5 ILCS 140/6(b) (West 2018)) provides, in pertinent part:

Except when a fee is otherwise fixed by statute, each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page. * * * The cost for certifying a record shall not exceed \$1. (Emphasis added.)

The plain language of section 6(b) of FOIA permits a public body, such as the Secretary of State's Office, to charge fees fixed by a statute other than FOIA. Section 15.15 of the Business Corporation Act of 1983 (805 ILCS 5/15.15 (West 2018)) provides that "[t]he Secretary of State shall charge and collect[]" a fee of \$25.00 for "furnishing a copy or certified copy of any document, instrument, or paper relating to a corporation[.]" Section 115.15 of the General Not for Profit Corporation Act of 1986 (805 ILCS 105/115.15 (West 2018)) provides that "[t]he Secretary of State shall charge and collect[]" a fee of \$5.00 for "furnishing a copy or certified copy of any document, instrument, or paper relating to a corporation[.]"

Johnson Funeral Services, Inc. is registered as a business corporation and D's Multi Complex is registered as a not-for-profit corporation. Because the records you requested relate to a business corporation and not-for-profit corporation, the specific fees for those records fixed by the Business Corporation Act of 1983 and General Not for Profit Corporation Act of 1986 are applicable and take precedence over the fee provisions of FOIA. Accordingly, this office has determined that no further action is warranted in this matter.

This file is closed. If you have any questions, please contact me at 312-814-6756 or ssilverman@atg.state.il.us.

Very truly yours,

STEVE SILVERMAN
Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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