



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 8, 2023

Via electronic mail

[REDACTED]

RE: FOIA Request for Review – 2023 PAC 75598

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 2020)). For the reasons explained below, the Public Access Bureau has determined that this Request for Review is unfounded.

On February 12, 2023, you submitted a six-part FOIA request to the Office of the Executive Inspector General for the Agencies of the Illinois Governor (OEIG) seeking copies of records related to your ethics complaint(s) concerning the City of Columbia's 2021 Leaf Debris Program. In particular, you asked for: (1) the referral letter from the Legislative Inspector General, Michael McCuskey, to the OEIG; (2) the referral and transmittal letter from the Illinois Attorney General's Office to the OEIG; (3) the "determinations or action towards [your] 12-29-22 letter" by the Executive Inspector General for the Illinois Attorney General's Office, Diane Saltoun; (4) "both the transmittal letter and the complaint [REDACTED] claims in her 1-3-23 letter to [you], to have forwarded to the OEIG[;]" (5) "any document or piece of correspondence that outlines or explains how OEIG, Attorney General, or OEIG, for the Agencies of the [Illinois] Governor decided to handle my 1-6-23 certified letter;" and (6) "any documented investigative action(s) initiated by [OEIG], for the Agencies of the Illinois Governor, involving any of the 1-6 FOIA Requests outlined above."¹ On February 17, 2023, the OEIG responded by denying the first four parts of your request under section 7.5(h) of FOIA,² stating that it possessed no records

¹FOIA request from [REDACTED] to Honorable Neil P. Olson, General Counsel, Ethics Officer, FOIA Officer, Office of Executive Inspector General for the Agencies of the Illinois Governor (February 12, 2023).

²5 ILCS 140/7.5(h) (West 2021 Supp.), as amended by Public Acts 102-813, effective May 13, 2022; 102-946, effective July 1, 2022; 102-1042, effective June 3, 2022; 102-1116, effective January 10, 2023.

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responsive to part five, and asserting that part six posed a question it was not required to answer. You have asked this office to review that response.

Section 7.5(h) of FOIA exempts from disclosure "[i]nformation the disclosure of which is exempted under the State Officials and Employees Ethics Act [SOEEA], and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act."

Subsections 20-95(b) and (d) of SOEEA (5 ILCS 430/20-95(b), (d) (West 2021 Supp.)) provide:

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of this Act. * * *

* * *

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential and privileged, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission, (iv) to another Inspector General appointed pursuant to this Act, or (v) to an Inspector General appointed or employed by a Regional Transit Board in accordance with Section 75-10. (Emphasis added.)

Subsection 20-90(b) of SOEEA (5 ILCS 430/20-90(b) (West 2020))—the other provision the OEIG cited in its response to your request—similarly provides that "commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General, * * * shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act[.]"

In this instance, all six parts of your FOIA request seek "allegations and related documents submitted to an Executive Inspector General" and/or "investigatory files and reports

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of the Office of an Executive Inspector General." Referral letters and transmittal letters sent to the OEIG concerning your complaint(s), including any enclosures, plainly constitute "allegations and related documents submitted to an Executive Inspector General." Similarly, even if the OEIG possesses records responsive to part six of your request, that part of your request seeks "investigatory files and reports of the Office of an Executive Inspector General." With respect to the OEIG's assertion that it does not possess records responsive to part five of your request explaining how the OEIG handled your January 6, 2023, certified letter, the OEIG's FOIA Officer clarified in a telephone conversation with an Assistant Attorney General in the Public Access Bureau that the OEIG had previously received and addressed the same complaint and notified you of the action taken. Because the January 6, 2023, letter contained a redundant complaint that already had been addressed by the OEIG, no records were generated documenting how the OEIG handled that letter.

Because the records you requested, to the extent that they exist, are prohibited from being disclosed by subsections 20-95(a) and (d) of SOEEA, they are exempt from disclosure pursuant to section 7.5(h) of FOIA. Accordingly, the Public Access Bureau has determined that this Request for Review is unfounded.

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

Very truly yours,

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

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cc: *Via electronic mail*
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