

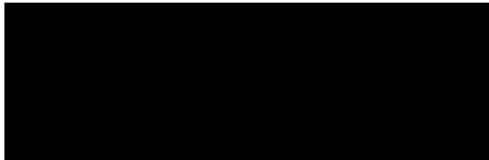


OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

December 18, 2015

*Via electronic mail*



Re: FOIA Request for Review- 2015 PAC 38780

Dear 

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 2014)). For the reasons that follow, the Public Access Bureau concludes that no further action on this matter is warranted.

On October 27, 2015, you submitted a FOIA request to the Village of Arlington Heights (Village), seeking blueprints for units 205 and 305 at 1206 South New Wilke Road in Arlington Heights. On November 2, 2015, the Village denied your request, citing section 7(1)(k) of FOIA (5 ILCS 140/7(1)(k) (West 2014), as amended by Public Act 99-298, effective August 6, 2015). On November 25, 2015, you submitted a Request for Review to this office contesting the Village's response to your FOIA request.

All public records in the possession or custody of a public body are "presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2014); *see also Southern Illinoisan v. Illinois Dept. of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 2014).

Section 7(1)(k) exempts from disclosure:

Architects' plans, engineers' technical submissions, and other construction related technical documents for projects ***not constructed or developed in whole or in part with public funds*** and the same for projects constructed or developed with public

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funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security. (Emphasis added.)

In correspondence with this office, the Village confirmed that it "checked with the Building and Planning Departments and as far as we know, no public funds were used to construct 1206 S New Wilke Rd, Arlington Heights."<sup>1</sup> In a phone conversation with this office, you confirmed that the structure that is the subject of your FOIA request is a private development.

Based on its plain language, the Public Access Bureau previously has interpreted section 7(1)(k) as exempting from disclosure: "all construction-related technical documents relating to projects that are paid for entirely with private funds." Ill. Att'y Gen. PAC Req. Rev. Ltr. 10924, issued January 21, 2011. No information provided to this office indicates that any public funds were used to develop the structure at 1206 South New Wilke Road, which your Request for Review identifies as a condominium building. Therefore the Village did not improperly withhold the requested blueprints, which are construction-related technical documents, pursuant to section 7(1)(k) of FOIA. Accordingly, we determine that no further action on this matter is warranted.

If you have any questions, you may contact me at the Springfield address on the first page of this letter. This letter serves to close this matter.

Very truly yours, 


  
BENJAMIN REED  
Assistant Attorney General  
Public Access Bureau

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cc: *Via electronic mail*  
Ms. Lisa Farrington  
Staff Attorney  
Village of Arlington Heights

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<sup>1</sup>Correspondence from Lisa Farrington, Staff Attorney, Village of Arlington Heights, to Benjamin Reed, Assistant Attorney General, Public Access Bureau (December 9, 2015).

  
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