



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 28, 2021

Via electronic mail

Via electronic mail

Mr. Peter A. Pacione
Storino, Ramello & Durkin
9501 West Devon Avenue
Rosemont, Illinois 60018
ppacione@srd-law.com

RE: FOIA Request for Review – 2020 PAC 64908; 2021 PAC 66331 and 66410

Dear [REDACTED] and Mr. Pacione:

On January 4, 2021, the Public Access Bureau received a Request for Review (2021 PAC 66331) alleging that the Village of Elmwood Park (Village) had not responded to [REDACTED] December 27, 2020, Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2018)) request seeking names, employee numbers, hiring dates, and salaries for all Village employees as well as badge numbers for police officers and firefighters (if firefighters have badge numbers). On the same day, the Village responded that it had no records to provide because [REDACTED] request for the same information was under review by this office in 2020 PAC 64908. [REDACTED] then filed another Request for Review (2021 PAC 66410) contesting the January 4, 2021, response.

The Village's January 4, 2021, response resolves the allegation, in 2021 PAC 66331, that the Village failed to respond to [REDACTED] December 27, 2020, FOIA request. With respect to the January 4, 2021, response, the underlying request in 2020 PAC 64908 sought the names, ranks, badge numbers or employee numbers, and hiring dates and salaries of the Village's Police Department and Fire Department personnel. [REDACTED] also requested the names, titles, employee numbers, hiring dates, and salaries of Water Department personnel. On September 14, 2020, the Village denied the request, stating that [REDACTED] had been convicted of impersonating a Village police officer on numerous occasions. The Village

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subsequently responded to this office by asserting that the requested information is exempt from disclosure pursuant to section 7(1)(kk) of FOIA,¹ which permits a public body to withhold "[t]he public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and **similar account information**, the disclosure of which could result in identity theft or impression or defrauding of a governmental entity or a person." (Emphasis added.) Alternatively, the Village requested that ██████████ be asked to "to assert or certify that he will not use the information for dishonorable or criminal purposes."² In his reply, ██████████ stated that he is seeking information that is available to the public and has no criminal purpose. Because the underlying requests in 2020 PAC 64908 and 2021 PAC 66410 seek overlapping information that the Village denied for the same reason, we are consolidating those files for determination in this matter.

In construing statutes such as FOIA, the primary goal is to ascertain and effectuate the intent of the General Assembly. See *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). "[W]hen a statute lists several classes of persons or things but provides that the list is not exhaustive, the class of unarticulated persons or things will be interpreted as those 'others such like' the named persons or things." *Board of Trustees of Southern Illinois Univ. v. Illinois Dep't of Human Rights*, 159 Ill. 2d 206, 211 (1994). In other words, the listed terms are examples of what the General Assembly intended the statute to cover. See *Duffy v. Illinois Dep't of Human Rights*, 354 Ill. App. 3d 236, 239 (4th Dist. 2004).

The terms listed in section 7(1)(kk) of FOIA above—"credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information"—are types of account information that could be exploited to gain unauthorized access to accounts. Those terms are not akin to basic identifying information such as names or badge numbers that are publicly-displayed when police officers and firefighters appear in public. Nor are they similar to ranks, hiring dates, or salary information, which pertains to the Village's use of public funds and is expressly subject to disclosure under section 2.5 of FOIA.³ Although the Village's concerns about misuse of the requested information are understandable in light of the criminal history described in its response to this office in 2020 PAC 64098, we are unable to conclude that the requested information is

¹ 5 ILCS 140/7(1)(kk) (West 2018), as amended by Public Acts 101-434, effective January 1, 2020; 101-452, effective January 1, 2020; 101-455, effective August 23, 2019.

² Letter from Peter A. Pacione, Storino, Ramello & Durkin, to Steve Silverman, Office of the Attorney General, Assistant Attorney General, Bureau Chief, Public Access Bureau (November 4, 2020), at 2.

³ Section 2.5 of FOIA (5 ILCS 140/2.5 (West 2018)) provides that "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public."

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exempt from disclosure pursuant to section 7(1)(kk). We note, however, that section 7(1)(b) of FOIA⁴ exempts from disclosure "private information", and that the Act defines that term to include "employee identification number[.]"⁵ Accordingly, with the exception of employee identification numbers, this office requests that the Village provide [REDACTED] with the information he requested.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have questions, you may contact me at (312) 814-6756 or ssilverman@atg.state.il.us

Very truly yours,

[REDACTED]
STEVE SILVERMAN
Bureau Chief
Public Access Bureau

66331 f pb resp mun 64908 66410 f 71kk improper mun

⁴5 ILCS 140/7 (West 2018), as amended by Public Acts 101-434, effective January 1, 2020; 101-452, effective January 1, 2020; 101-455, effective August 23, 2019.

⁵Section 2.5(c) of FOIA (5 ILCS 140/2(c-5) (West 2018)) defines "private information" as:

unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.