



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

May 20, 2024

*Via electronic mail*



RE: FOIA Request for Review – 2024 PAC 81399

Dear [REDACTED]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA).<sup>1</sup> For the reasons explained below, the Public Access Bureau has determined that no further action is warranted in this matter.

On April 12, 2024, after business hours, in an unsigned e-mail, you submitted a FOIA request to the Downers Grove Public Library (Library) seeking "records of the Executive Closed Session regarding the investigation of" you.<sup>2</sup> On April 22, 2024, the Library denied your request pursuant to section 7(1)(a) of FOIA<sup>3</sup> in connection with section 2.06(e) of the Open Meetings Act (OMA),<sup>4</sup> as well as section 7(1)(l) of FOIA.<sup>5</sup> Thus, the Library construed your request as seeking the materials generated by the closed session—the closed session verbatim recording and closed session minutes—and not records referenced during the closed session. On

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<sup>1</sup>5 ILCS 140/9.5(c) (West 2022), as amended by Public Act 103-069, effective January 1, 2024.

<sup>2</sup>E-mail from [REDACTED] to Julie Milavec (April 12, 2024).

<sup>3</sup>5 ILCS 140/7(1)(a) (West 2022), as amended by Public Acts 103-154, effective June 30, 2023; 103-423, effective January 1, 2024; 103-462, effective August 4, 2023; 103-446, effective August 4, 2023; 103-540, effective January 1, 2024; 103-554, effective January 1, 2024.

<sup>4</sup>5 ILCS 120/2.06(e) (West 2022).

<sup>5</sup>5 ILCS 140/7(1)(l) (West 2022), as amended by Public Acts 103-154, effective June 30, 2023; 103-423, effective January 1, 2024; 103-462, effective August 4, 2023; 103-446, effective August 4, 2023; 103-540, effective January 1, 2024; 103-554, effective January 1, 2024.

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May 14, 2024, you submitted the above-referenced Request for Review contesting the Library's response. You indicated that you had requested an investigation from the Library and stated that you were requesting all documentation on that investigation.

As a threshold matter, a FOIA request must reasonably identify the public records the requester seeks. *Chicago Tribune Co. v. Department of Financial & Professional Regulation*, 2014 IL App (4th) 130427, ¶ 33. Public bodies are not required to search beyond the four corners of a FOIA request, nor are they required to divine the requester's intent. *American Chemistry Council, Inc. v. U.S. Department of Health & Human Services*, 922 F. Supp. 2d 56, 62 (D.D.C. 2013). Therefore, "[a] public body does not violate FOIA by failing to produce documents in its possession that do not fit within the parameters of the documents specified in the FOIA request." *Kraft v. City of Kankakee*, 2022 IL App (3d) 210270-U, ¶ 25 (citing *Harwood v. McDonough*, 334 Ill. App. 3d 242, 249-50 (2003)). In this instance, although your Request for Review indicates that you seek investigatory materials that may have been discussed or referenced during the Library Board's closed session discussion pertaining to you, your request for "records of the Executive Closed Session regarding the investigation" did not reasonably identify any such investigatory records; the language "of the" in your request indicated that you were seeking the records documenting the closed session itself, rather than underlying records of the investigation that related to or were mentioned during the closed session. Accordingly, investigatory records are outside the scope of this matter, and the remainder of this determination letter addresses why the records documenting the closed session are exempt from disclosure.

Section 7(1)(l) of FOIA exempts from disclosure "[m]inutes of meetings of public bodies closed to the public as provided in [OMA] until the public body makes the minutes available to the public under Section 2.06 of [OMA]." In addition, section 2.06(f) of OMA<sup>6</sup> provides that the "[m]inutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential[.]" The Public Access Bureau has consistently determined that closed session minutes are exempt from disclosure under the plain language of section 7(1)(l) of FOIA, as long as there is no indication that the public body has voted to make them available to the public under section 2.06(f) of OMA. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 23562, issued March 2, 2015, at 2; Ill. Att'y Gen. PAC Req. Rev. Ltr. 49629, issued September 19, 2017, at 2. Given that the Library denied your FOIA request pursuant to the 7(1)(l) exemption, and you have provided no evidence to the contrary, there is no indication that the Library has voted to make the minutes from the meeting that is the subject of your request available to the public.

Section 7(1)(a) of FOIA exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Section 2.06(e) of OMA provides:

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<sup>6</sup>5 ILCS 120/2.06(f) (West 2022).

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Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act.

Thus, section 2.06(e) of OMA specifically prohibits disclosure of closed session verbatim recordings unless the public body has made a determination that the recordings no longer require confidential treatment. The Library denied your request pursuant to section 2.06(e), reflecting that it has not determined that the closed session verbatim recording at issue no longer requires confidential treatment.

Because the closed session minutes and verbatim recording you requested are exempt from disclosure, this office has determined that no further action is warranted in this matter. You may wish to submit a new FOIA request to the Library in which you expressly ask for documentation from the investigation you mentioned in your correspondence to this office if you still seek such records.

This file is closed. If you have any questions, please contact me at [katherine.goldsmith@ilag.gov](mailto:katherine.goldsmith@ilag.gov).

Very truly yours,

  
KATIE GOLDSMITH  
Assistant Attorney General  
Public Access Bureau

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