



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 25, 2025

Via electronic mail



RE: FOIA Request for Review – 2025 PAC 89273

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 2024)). For the reasons set forth below, the Public Access Bureau has determined that this Request for Review is unfounded.

On June 30, 2025, you submitted a FOIA request to the Illinois Department of Financial and Professional Regulation (Department) seeking various records related to an administrative order that was issued in 2013-MBR-41. On August 28, 2025, the Department provided a copy of an Order to Cease and Desist issued in No. 2013-MBR-41, subject to redactions pursuant to section 7(1)(a), 7(1)(b), and 7(1)(c) of FOIA.¹ Additionally, the Department cited section 1326.210 of title 2 of the Illinois Administrative Code.²

On September 16, 2025, this office received your Request for Review questioning how a disciplinary case file could consist of only a judgment order. You asserted that the Department's response was incomplete in that you did not receive any records supporting the order that you received, such as the complaint or initiating document, investigative materials, internal communications, hearing transcripts, and exhibits or evidence considered.

"All records in the custody or possession of a public body are presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2024); *see also Southern Illinoisan v.*

¹5 ILCS 140/7(1)(a), (1)(b), (1)(c) (West 2024).

²2 Ill. Adm. Code § 1326.210 (West 2024), amended at 43 Ill. Reg. 14647, effective December 20, 2019.

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Illinois Department of Public Health, 218 Ill. 2d 390, 415 (2006). A public body that withholds records "has the burden of proving by clear and convincing evidence" that the records are exempt from disclosure. 5 ILCS 140/1.2 (West 2024). When presented with a FOIA request, a public body must perform a reasonable search under the particular circumstances of the matter. *Better Government Ass'n v. City of Chicago*, 2020 IL App (1st) 190038, ¶ 31. However, "[a] requester is entitled only to records that an agency has in fact chosen to create and retain." *Yeager v. Drug Enforcement Administration*, 678 F.2d 315, 321 (D.C. Cir. 1982).

On September 24, 2025, this office spoke with the Department's FOIA officer, Kathleen Anderson, regarding your request. Ms. Kathleen explained that your request was initially understood to seek records concerning your disciplinary case and thus the Department mistakenly provided you with records pertaining to your own case. However, upon your clarification, the Department searched for records concerning the case, No. 2013-MBR-41, which involved a company as the named party. Ms. Anderson explained that this case was handled by its Division of Banking, which follows a different process than the process employed by its Division of Professional Regulation to regulate licensees and other entities or individuals. She stated that the Division of Banking starts its process by issuing a final order, which a party may then challenge by requesting a hearing. If such a request is not received, then the final order stands. Ms. Anderson consulted with an attorney in the Division of Banking and confirmed that no request for hearing was received after the division issued the final order in No. 2013-MBR-41. Therefore, the Department did not have any additional records to provide related to any hearings. With regard to materials that were prepared by the Department prior to the final order, Ms. Anderson asserted that section 1326.220(d) of title 2 of the Illinois Administrative Code³ prohibits the Department from disclosing those types of materials.

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." Sections 1326.210 and 1326.220 of title 2 of the Illinois Administrative Code contain rules and regulations related to records maintained by the Department. The latter section provides that the Department shall not disclose, pursuant to FOIA, the following:

- d) Division of Banking:
 - 1) Confidential supervisory information. (See Section 7(1)(a) of FOIA and 205 ILS 635/1-4(ii))
 - 2) Information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of the Department for the regulation or

³2 Ill. Adm. Code § 1326.220(d) (West 2024), amended at 43 Ill. Reg. 14647, effective December 20, 2019.

supervision of financial institutions. (See Section 7(1)(t) of FOIA).^[4]

Section 1-4(ii) of the Residential Mortgage License Act of 1987⁵ defines "confidential supervisory information" as:

[A]ny report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination visitation, or investigation prepared by the state regulatory authority of another state that examines a licensee, **any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation**, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection. "Confidential supervisory information" does not include any information or record routinely prepared by a licensee and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule. (Emphasis added.)

Section 7(1)(t) of FOIA⁶ exempts from disclosure "[i]nformation contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions, insurance companies, or pharmacy benefit managers, unless disclosure is otherwise required by State law." The Public Access Bureau has previously concluded that this exemption encompasses information submitted by financial institutions to regulators for examination purposes. Ill. Att'y Gen. PAC Req. Rev. Ltr. 16976, issued March 26, 2012, at 4-5 (determining that a specific database of information submitted by financial institutions that was used by department examiners in connection with the licensing process could be withheld).

The Department's search appears reasonably calculated to have located records responsive to your request. The Department appropriately consulted with its Division of Banking as the case specified in your request was handled by that division. Your previous February 14, 2017, request to the Department similarly sought records of the complaint, preliminary hearing, and formal administrative hearing for this case. The Department confirmed

⁴2 Ill. Adm. Code § 1326.220(d) (West 2024), amended at 43 Ill. Reg. 14647, effective December 20, 2019.

⁵205 ILCS 635/1-4(ii) (West 2024), as amended by Public Act 103-1015, effective January 1, 2025.

⁶5 ILCS 140/7(1)(t) (West 2024).

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that it does not maintain records related to any hearing because the named party did not request a hearing. As to any complaints and investigative materials, the Department's regulations prohibit the disclosure of "confidential supervisory information" and "information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of the Department for the regulation or supervision of financial institutions." Based on this office's review, the cease-and-desist order that was issued in No. 2013-MBR-41 was against a company that the Department alleged to have violated provisions of the Residential Mortgage License Act of 1987 and the Mortgage Rescue Fraud Act. Any complaints against the company, as well as investigative records and internal correspondence, would pertain to the Department's examination or investigation of the company's mortgage loan activities. Those records fall within the broad categories of records that are exempt from disclosure under the Department's rules and regulations implementing the Residential Mortgage License Act of 1987 and section 7(1)(t) of FOIA. The Department's February 28, 2017, response also cited the Residential Mortgage License Act of 1987 as a basis for partially denying your previous request. Because the Department does not possess records of any hearing or administrative proceeding in No. 2013-MBR-41 and because the Department is prohibited from providing any remaining case file materials, this office concludes that the Department did not improperly withhold records responsive to your June 30, 2025, request. Accordingly, this Request for Review is unfounded.

This file is closed. If you have questions, please contact me at the Chicago address on the bottom of the first page of this letter.

Very truly yours,

[REDACTED]
TERESA LIM
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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