



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 16, 2017

Via electronic mail

[REDACTED]

RE: OMA Request for Review – 2017 PAC 48032

Dear [REDACTED]:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2015 Supp.)). For the reasons set forth below, the Public Access Bureau has determined that no further action is warranted in this matter.

On May 24, 2017, you submitted a Request for Review to this office alleging that the Village of Wheeling (Village) violated section 7.3(b) of OMA (5 ILCS 120/7.3(b) (West 2014)), which provides, in pertinent part: "At least 6 days before an employer participating in the Illinois Municipal Retirement Fund approves an employee's total compensation package that is equal to or in excess of \$150,000 per year, the employer must post on its website the total compensation package for that employee."

The information that you submitted with your OMA Request for Review indicates that on May 14, 2017, you had submitted a Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2014)) request to the Village seeking "electronic copies of each payroll record the Village submitted to IMRF for year 2016 as well as their corresponding certifications."¹ After receiving the Village's response, you e-mailed the Village pointing out that the income information in the IMRF reports you received was different from the compensation information posted on the "transparency page"² of Village website. Although FOIA does not compel public bodies to interpret or advise requesters as to the meaning of public records (*See* 5 ILCS 140/3.3 (West 2014)), the Village responded to you on May 24, 2017, by explaining that the reports reflect different amounts because the requirements are different. The Village reports to the

¹E-mail from [REDACTED] to foia (May 14, 2017).

²Transparency Portal, Village of Wheeling, Illinois, <http://www.wheelingil.gov/537/Transparency-Portal> (last visited June 2, 2017).

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IMRF reflect "pensionable" earnings actually paid to an employee, while the IMRF information posted on the website reflects the total compensation expected to be paid. Your Request for Review states that you believe the Village "has given a false presentation of material fact when they allege incomes that vary by as much as \$38,000 in what they report to the public when they allege compliance with Public Act 97-069^[3] on the 'transparency page' of their website."⁴ Your Request for Review does not allege that the Village failed to post the information required by section 7.3(b) of OMA; rather, you are questioning the accuracy of the information.

Section 7.3(c) of OMA (5 ILCS 120.7.3(c) (West 2014)) defines "total compensation package" as "payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted." This office's review of the salary and benefits spreadsheet on the Village's website indicated that it appears to disclose the total compensation package for each Village employee, including salary, vehicle allowance, stipend, health insurance, vacation days, and sick days. The fact that payroll records the Village submitted to the IMRF, which include different or additional information, may reflect different amounts does not implicate the requirements of section 7.3(b) of OMA. Therefore, this office concludes that you have not set forth facts sufficient to allege a violation of OMA.

In an attempt to resolve this matter, however, this office asked the Village to further explain why the figures are different. In a June 14, 2017, telephone conversation with an Assistant Attorney General in the Public Access Bureau, an attorney from the law firm retained to represent the Village explained that the compensation packages disclosed on the website reflects employees' budgeted compensation for the year and that this budgeted compensation was posted at least six days before its approval. The "pensionable income" that was reported to IMRF reflects actual compensation earned by employees on a monthly basis including unused vacation and sick days that an employee may decide to "sell" back to the Village. Because the facts you have alleged do not indicate that the Village has violated section 7.3 or any other provision of OMA, this office has determined that no further action is warranted.

³Public Act 97-609, effective January 1, 2012, added section 7.3 to OMA.

⁴E-mail from [REDACTED] to [A]ttorney [G]eneral (May 24, 2017).

[REDACTED]
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If you have any questions, please contact the Public Access Bureau at the Chicago address at the bottom of the first page of this letter. This file is closed.

Very truly yours,

[REDACTED]
TERESA LIM
Assistant Attorney General
Public Access Bureau

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