

# UNIVERSITY OF ILLINOIS

URBANA-CHAMPAIGN • CHICAGO • SPRINGFIELD

July 23, 2014

Andrew Scheinman  
ascheinman@scheinmanlaw.com

Re: FOIA 14-451, 14-452, 14-453

Dear Dr. Scheinman:

I write to respond to your three Freedom of Information requests dated and received in my office on June 23, 2014, and received in my office on that date. In these requests, you seek:

“1....an unredacted copy of the attached document [University response to 2014 PAC 29214]...[14-451]

2. ... the basis in the Act on which you redacted the information in the attached document. [14-452]

...

3. ...metadata on the blacked out text, specifically on whether the text was a reproduction of emails, or was newly generated. [14-453]”

In response to FOIAs #14-451 and 14-452, your request for an unredacted copy of the document attached to your request is denied. As noted in that attached document, the University provided the redacted information to the Public Access Counselor (PAC) under a claim that it was confidential and should not be disclosed. Sections 9.5(c) and (d) of the Act provide that:

“To the extent that records or documents produced by a public body contain information that is claimed to be exempt from disclosure under Section 7 of this Act, the Public Access Counselor shall not further disclose that information.” (5 ILCS 140/9.5(c))

“The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.” (5 ILCS 140/9.5(d)).

The University considers this information exempt from disclosure under the following sections of the Act:

- 140/7(1)(a) that exempts from disclosure “Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing adopted under federal or State law.” Pursuant to the sections of 9.5 cited above, information provided

Office for University Relations

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to the PAC under a claim that it is confidential and exempt from production shall not be disclosed.

- 140/7(1)(c) that exempts from disclosure “Personal information contained within public records, the disclosure of which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information.” This includes personal information.
- 140/7(1)(f) of FOIA, which exempts “Preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record of relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.” This information that was redacted from the University’s answer to the further inquiry letter was provided as part of the PAC’s decision-making process.
- 140/7(1)(g) that exempts from disclosure “Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that or where disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business...” The redacted information, which was provided to the PAC under a claim of confidentiality, contains commercial information about a pending negotiations that would cause harm if released.
- •140/7(1)(h) of the Act, which exempts “[p]roposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made.” This includes communications about ongoing contract negotiations.
- 140/7(1)(r) of the Act that exempts from disclosure “records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated.” This includes communications about a potential purchase of real estate.

Your third FOIA request, 14-453, is not seeking a public document; instead, you are asking the University to answer questions or write a description. In *Kenyon v. Garrels*, the 4th District Illinois Appellate Court found that “requests for information that did not identify the documents to be produced or made available was not in proper form.” 184 Ill. App. 3d 28, 33 (Ill. App. Ct. 4th Dist. 1989). The court went on to say, FOIA “does not compel the agency to provide answers to questions posed by the inquirer.” *Kenyon*, 540 N.E.2d at 13 (citing *Krohn v. Department of Justice* (D.C. Cir. 1980), 628 F.2d 195).

Since request #14-453 is not requests for records, it is not in proper form and, thus, is denied.

You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at 217-782-1396, by email to [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us), or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

If you have any questions, please address them to the attention of Ms. Laura Clower, Associate University Counsel, at [clower@uillinois.edu](mailto:clower@uillinois.edu).

Sincerely,

Thomas P. Hardy  
Executive Director  
and Chief Records Officer

cc: Laura Clower, Assoc. Univ. Counsel