

UNIVERSITY OF ILLINOIS

URBANA-CHAMPAIGN • CHICAGO • SPRINGFIELD

December 4, 2014

Andrew Scheinman
ascheinman@scheinmanlaw.com

Re: FOIA #14-739, 14-740, 14-741

Dear Dr. Scheinman:

I am responding to your letter dated November 2, 2014 and received in our office on November 3, 2014, under the Freedom of Information Act ("FOIA" or the "Act") in which you sought:

"For any statement of documents entirely withheld, please provide a statement as to which of the above separate FOIAs this statement applies to. [14-739]

For any statement of documents entirely withheld, please provide a statement as to the NUMBER of documents so withheld for each of the above separate FOIAs. [14-740]

For any statement of documents entirely withheld, please provide metadata on each document(s) so withheld for each of the above separate FOIAs, with this metadata including: date, time, to, from, subject, attachments. [14-741]"

Your requests are denied as they are not in proper form. Section 3(a) of FOIA provides, "Each public body shall make available to any person for inspection or copying *all public records*, except as otherwise provided in Section 7 of this Act." (5 ILCS 140/3(a)). (Emphasis added). The Act further provides that it is "not intended to create an obligation on the part of any public body *to maintain or prepare any public record which was not maintained or prepared by such public body* at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law." (5 ILCS 140/1). (Emphasis added).

Your requests are not seeking a public document; instead, in the first and second requests you are asking the University to provide an explanation and in the third you ask the University to prepare a record. 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 your requests are not requests for records, they are not in proper form and, thus, are 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, 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.

Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer

cc: Laura Clower, Assoc. Univ. Counsel