



November 18, 2016

VIA E-MAIL

Mr. Dan Johnson

Email: dan@campaignfiler.com

RE: 16 -FOIA-287 BN and UP PSA contracts

Dear Mr. Johnson:

We are in receipt of your request under the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.*

I. Background

On November 8, 2016, we received your request for copies of the most recent Purchase of Service Agreements between Metra and the Union Pacific Railroad Company (“UP”) and Metra and the Burlington Northern Santa Fe Railroad Company (“BNSF”) (“**Request**”). Your request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, Metra is providing you with copies of the following:

- Amended and Restated Purchase Service Agreement with Exhibits between Metra and the BNSF;
- Amendment Nos. 1, 2, and 3 to the Amended and Restated Purchase Service Agreement between Metra and BNSF;
- Amended and Restated Purchase Service Agreement between the Commuter Rail Division of the Regional Transportation Authority and the UP with exhibits; and
- Amendment Nos. 1, 2, 3, and 4 to the Amended and Restated Purchase Service Agreement between the Commuter Rail Division of the Regional Transportation Authority and the UP.

(“**Responsive Documents**”).

III. Partial Denial

While FOIA requires public bodies to provide access to public records generally, FOIA also authorizes units of government to withhold certain information. Therefore, Attorney Thomas Stuebner has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The personal telephone number and home address, of the party mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Personal telephone numbers,” and “home addresses” are specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.

2. The physical description of the party mentioned in the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(c) of FOIA, which exempts “personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....” Section 7(1)(c) goes on to say that, “‘Unwarranted invasion of personal privacy’ means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information.” It has been determined that the aforementioned data falls squarely within that definition and its redaction is appropriate under FOIA.
3. Certain portions of the Responsive Documents are exempt from disclosure under Section 7(1)(g) of FOIA. Section 7(1)(g) states that, “trade secrets and commercial or financial information obtained from a person or business” can be exempt “where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.” Accordingly, per Attorney Thomas Stuebner, all information regarding commercial financial information within the Responsive Documents has been redacted.
4. Insurance information contained within the Responsive Documents is being redacted because it is exempt from disclosure under Section 7(1)(s) of FOIA, which exempts “[a]ny and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications.” 5 ILCS 140/7(1)(s). Accordingly, per Attorney Thomas Stuebner, all information regarding insurance within the Responsive Document has been redacted.

IV. Right of Review

You have the right to have the partial denial of your Request reviewed by the Public Access Counselor (“**PAC**”) of the Illinois Attorney General’s Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

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You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5
ILCS 140/11.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "S. Hatch".

S. Hatch
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachments