

February 2, 2016

VIA E-MAIL

Mr. Daniel Hamilton
Brown, Hay & Stephens, LLP
Email: dhamilton@bhslaw.com

RE: 16-FOIA-001 - Davidoff Communications 4/1/2015 – 4/15/2015

Dear Mr. Hamilton:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“**FOIA**”).

I. Background

On January 19, 2016, we received your request for:

Copies of any and all communications, recommendations, and documents related to work performed by the firm Davidoff Communications on behalf of or in any way related to Metra, dated or occurring on or a date between April 1, 2015 and April 15, 2015. This request shall include, but not be limited to: (1) any and all communications by and between Davidoff Communications (or any intermediary acting on or behalf of Davidoff Communications) and Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members (or any intermediary acting on or behalf of Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members); and (2) any and all recommendations and / or documents provided by or to Davidoff Communications by or to any Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members (or any intermediary acting on or behalf of Davidoff Communications, Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members)

(“**Request**”). Your Request is granted in part and denied in part.

We contacted you on January 15, asking if you would consider narrowing down the scope of your Request to communications between April 1 to April 15, 2015. You responded on January 18 agreeing to the narrowed scope.

II. Responsive Documents

In response to your Request, Metra is providing you all communications and documents between Davidoff Communications and Metra personnel between April 1 – April 15, 2015, along with six (6) mp3 radio advertisements (“**Responsive Documents**”).

You may access the Responsive Documents via Metra’s file transfer protocol (“**FTP**”) site. Direct your browser to <https://ftp.metrarr.com/>. The user name is: **foia25** and the case sensitive password is: **85FC46Rb**. Access to this FTP site will expire February 16, 2016. *If you require additional time to download these documents, please let us know prior to the expiration date.*

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 Document are exempt from disclosure under certain provisions of FOIA:

1. The Dropbox links contained with the Responsive Documents are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts “private information.” “Private information” means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. 5 ILCS 140/2(c-5). Please note that although the Dropbox links have been redacted, we are providing you with the campaign boards that were contained with these Dropbox links.
2. A certain portion of one of the emails contained within the Responsive Documents, expresses opinions which have been redacted under Section 7(1)(f) of FOIA. Section 7(1)(f) exempts from disclosure any “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]” 5 ILCS 140/7(1)(f). As such, per Attorney Thomas Stuebner has determined that the aforementioned email is properly redacted under Section 7(1)(f) of FOIA.

IV. Denial

Of the 524 documents reviewed, 115 pages are specifically marked as “Draft” and are being withheld in their entirety under Section 7(1)(f) of FOIA. Section 7(1)(f) exempts from disclosure any “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated . . . [.]” 5 ILCS 140/7(1)(f). Accordingly, Attorney Thomas Stuebner has determined that the aforementioned pages are draft documents and are exempt from disclosure under Section 7(1)(f).

V. 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.

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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.

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,



Kathleen E. Haton
Freedom of Information Officer
FOIA@metrarr.com