

March 18, 2016

VIA E-MAIL

Mr. Chip Pew
Railroad Safety Specialist – Public Education and Outreach
Illinois Commerce Commission
Email: cpew@icc.illinois.gov

RE: 16-FOIA-057 Report - Accident Edgebrook Woods 2/26/2016

Dear Mr. Pew:

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 March 1, 2016, we received your request for a copy of an incident report involving a female trespasser stuck and killed by a Metra train near Edgebrook Woods on Friday, February 26, 2016 (“**Request**”). Your Request is granted in part and denied in part.

We sent you an email on March 15, explaining that the Metra Police Department (“**MPD**”) was finalizing their report regarding this accident and asked if you would grant us a short extension to March 17 to respond to your Request. You responded to our email that same day, granting our extension, and then followed-up with another email stating that all you needed were the incident report, narrative and diagram. I called you on March 17 to advise we had not yet received the diagram from MPD, but were told this record would be available on March 18. I asked if you wanted to receive the report on March 17, with a supplemental response on March 18, or if you would like to receive both of these records on March 18. You stated you would like to receive both records on March 18.

II. Responsive Document

In response to your Request, the Metra Police Department is providing you with a copy of police report #16-00006673, which includes a narrative and the accident reconstruction diagram (“**Responsive Document**”).

The MPD advised that they did not receive a copy of the Cook County Forest Preserve Police report #160226-709463, as referenced in the Responsive Document. To obtain a copy of this report, you may contact the Forest Preserve District of Cook County at:

Forest Preserve District of Cook County
Attn: Legal Department
Dennis White
Chief Attorney and FOIA Officer
69 West Washington Street, Suite 2010
Chicago, IL 60602

Fax: 312.603.9850

E-mail: fpdcc.foia@cookcountyil.gov

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 driver's license number, password, personal telephone number and home address of the parties mentioned in the Responsive Document are being redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts "private information." "Driver's license numbers," "passwords," "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 dates of birth and physical descriptions of the parties, as well as the names of the third-parties mentioned in the Responsive Document, 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. Section 7(1)(a) of FOIA exempts "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." 5 ILCS 140/7(1)(a). Accordingly, the home address, date of birth, driver's license number, and any physical description of the party mentioned in the Responsive Document are exempt from disclosure per the Driver's Privacy Protection Act, 18 U.S.C. § 2721 *et seq.*, which prohibits individuals from knowingly obtaining or disclosing "personal information" from a motor vehicle record.

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.

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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

Attachment