



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 2, 2017

Via electronic mail



Via electronic mail

Mr. Dwaine VanMeenen
Village Administrator
Village of Cambridge
124 West Exchange
Cambridge, Illinois 61238
admnvoc@gmail.com

RE: FOIA Request for Review – 2017 PAC 46913

Dear [REDACTED] and Mr. VanMeenen:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2014)). For the reasons that follow, the Public Access Bureau concludes that the Village of Cambridge (Village) violated FOIA in its response to [REDACTED]'s January 17, 2017 FOIA request.

On that date, [REDACTED] submitted a FOIA request to the Village seeking the following categories of records for years 2013, 2014, 2015, 2016 to present: appropriation ordinances, financial reports, board policies, paid expenses, external audit reports, budgets, and resolutions. [REDACTED] contended that these categories of information were listed on the Village's website as "immediately available." On January 17, 2017, the Village sought clarification from [REDACTED] regarding his request. Among other things, it noted that it would supply electronic copies where available, but that not all of the requested records were available in an electronic format. The Village wrote, "[i]f you are looking for hard copies there will be a charge for this as you know and we will let you know what the cost will be?"¹ On January 18, 2017, [REDACTED]

¹E-mail from Dwaine VanMeenen to [REDACTED] (January 17, 2017).

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replied that "[u]nless only available otherwise, the requester seeks any and all responsive records as specified in the FOIA Request * * * to be provided in an electronic format."² He specified that PDF or JPEG format was preferable. He noted that he could not find a fee schedule or notice regarding copying costs and requested that the Village advise him of any costs the Village must impose to provide the responsive records. On January 24, 2017, the Village granted ██████'s request, providing PDF versions of external audit reports and informing ██████ that hardcopies of records responsive to the other portions of his request were available for pickup. In responding to ██████'s request, the Village made 467 copies; the first 50 pages were free, but the remaining 417 copies cost \$62.55, based on a fee of \$0.15 per page. On March 15, 2017, ██████ submitted this Request for Review contesting the Village's response to his FOIA request. Specifically, ██████ alleged that many of the responsive records should have been available in an electronic format and challenged the charges that the Village sought to impose for copies.

On March 22, 2017, this office sent a copy of the Request for Review to the Village and asked it to respond to ██████'s allegation that the Village did not provide the records in the format that he requested. We asked the Village to clarify whether the requested records, aside from the external audit report, were maintained in an electronic format and if so, whether it was feasible to provide the records to ██████ electronically. On March 31, 2017, the Village responded, explaining that it could provide appropriation ordinances, financial reports, paid expense lists, and budgets in an electronic format. It indicated that board policies and resolutions were maintained in hardcopy format only. The Village explained that it would provide the first 50 pages of copies for free and that any additional pages would cost \$0.15 per page. On April 12, 2017, ██████ replied.

DETERMINATION

Section 3(b) of FOIA (5 ILCS 140/3(b) (West 2014)) provides:

Subject to the fee provisions of Section 6 of this Act, each public body shall promptly provide, to any person who submits a request, a copy of any public record required to be disclosed by subsection (a) of this Section and shall certify such copy if so requested.

Additionally, section 6(a) of FOIA (5 ILCS 140/6(a) (West 2014)) provides:

²E-mail from ██████ to Dwaine VanMeenen (January 18, 2017).

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When a person requests a copy of a record ***maintained in an electronic format***, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. (Emphasis added.)

Under the plain language of section 6(a), if the Village maintained the appropriation ordinances, financial reports, paid expense lists, and budgets in an electronic format, it was required to provide them to ██████████ electronically, if feasible. However, because the Village does not maintain the board policies and resolutions in an electronic format, it was not required to provide those records electronically. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 28697, issued April 18, 2014, at 2 ("The plain language of section 6(a) requires a public body to provide records in electronic format *if* the public body maintains those records in electronic format. This office has previously determined that section 6(a) does not require a public body to furnish in electronic format records maintained solely in paper format, even if the public body has the resources to reproduce those records in PDF." (Emphasis in original.)). Accordingly, this office finds that the Village violated section 6(a) of FOIA with regard to the records maintained electronically, but its response was proper regarding the records maintained only in hardcopy.

██████████ also challenges the Village's fee schedule for copies. Section 6(b) of FOIA (5 ILCS 140/6(b) (West 2014)) sets forth the general fee provisions for FOIA requests:

Except when a fee is otherwise fixed by statute, each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page.

The Village has indicated that it will provide the first 50 pages of copies for free, but that it will charge \$0.15 per page for any additional pages. Those fees are authorized by section 6(b) of FOIA. Accordingly, this office concludes that the Village's fee schedule does not violate the requirements of FOIA.

In conclusion, this office requests that the Village (1) provide ██████████ with electronic copies of the records responsive to his request that are maintained electronically, and

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(2) inform [REDACTED] of the cost of copying the responsive records maintained in hardcopy and, if [REDACTED] consents to pay the applicable fees, to provide him those records.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at the Springfield address on the first page of this letter or at (217) 524-7958.

Very truly yours,

[REDACTED]
LAURA S. HARTER
Assistant Attorney General
Public Access Bureau

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