



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 25, 2022

Via electronic mail

[REDACTED]

RE: FOIA Request for Review – 2021 PAC 68318

Dear [REDACTED]:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2020)). For the reasons explained below, this office has determined that your Request for Review is unfounded.

On November 16, 2021, this office received the information necessary to complete your Request for Review, which concerned a FOIA request that you submitted to the Illinois Secretary of State's Office (Secretary of State's Office) on November 4, 2021. Your FOIA request stated: "FOIA Request, LIST ROSTER OF ALL EMPLOYEES AND JOB DUTIES/TITLES FOR SOS [Secretary of State's Office]] LOCATED **100 W Randolph St, Chicago, IL 60601, United States, THOMPSON CENTER, SEND IN PDF FORMAT.**"¹ On November 4, 2021, the Secretary of State's Office denied your request as an unduly burdensome repeated request under section 3(g) of FOIA,² stating that it had already provided you with copies of those records on September 10, 2021, in response to your September 8, 2021, FOIA request. Your Request for Review asked this office to, "REVIEW THIS FOIA REQUEST, AS THIS EMPLOYEE IS DENYING PUBLIC RECORDS AND ASSUMING THINGS ABOUT ME."³

¹E-mail from [REDACTED] to Donna Leonard, [Executive Counsel], [Illinois Secretary of State] (November 4, 2021). (Emphasis in original).

²5 ILCS 140/3(g) (West 2020).

³E-mail from [REDACTED] to Public Access [Bureau] (November 4, 2021).

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Section 3(g) of FOIA provides, in pertinent part that "[r]epeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision." (Emphasis added.) Under the plain language of section 3(g), a request is an unduly burdensome repeated request if a public body has previously provided you with the responsive records or properly denied a prior, unchanged request.

Furthermore, section 2(b) of FOIA⁴ defines "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." This office has previously determined that two individuals who extensively worked in tandem on FOIA matters qualified as the same "person" for purposes of section 3(g) of FOIA. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 41654, issued August 28, 2019, at 2 ("It would be absurd for a public body to have to comply with separate requests from [two named individuals] for the same materials given their extensive joint FOIA efforts.").

On January 13, 2022, an Assistant Attorney General (AAG) in the Public Access Bureau e-mailed you for clarification because it was unclear whether you were disputing that you had submitted a FOIA request to the Secretary of State's Office for the same records, or that the Secretary of State's Office had previously provided you with the responsive records. The AAG requested that you provide this office with a copy of the September 8, 2021, FOIA request and the Secretary of State's Office's September 10, 2021, response, if applicable. On January 19, 2022, you sent an e-mail to this office with no content or attachment, and on January 27, 2022, you e-mailed this office inquiring about the status of this file, but you did not clarify your Request for Review, dispute the Secretary of State's Office's allegations, or provide the requested documents. On January 27, 2022, the AAG e-mailed you again and asked that you specifically clarify whether you are alleging that you did not submit a September 8, 2021, FOIA request to the Secretary of State's Office seeking the same records. To date, you have not responded to the AAG's correspondence or otherwise disputed the Secretary of State's Office's allegations.

On February 13, 2021, the AAG spoke with Ms. Donna Leonard, FOIA officer for the Secretary of State's Office. Ms. Leonard explained that since July 2021, the Secretary of State's Office has received numerous anonymous FOIA requests repeatedly requesting the same records, and that all requests were submitted using different e-mail addresses via the encrypted e-mail service ProtonMail,⁵ all using the same, or substantially similar, phrasing and writing style. Ms. Leonard stated that she has reason to believe that you, or other individuals working in concert with you, submitted these FOIA requests.

⁴5 ILCS 140/2(b) (West 2020).

⁵<https://mashable.com/article/what-is-protonmail>

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Relevant to this matter, Ms. Leonard provided this office with a copy of a FOIA request that the Secretary of State's Office received on September 8, 2021, from the e-mail address [REDACTED] that requested, "List roster of all employees and job duties/titles and salary working at the Secretary of State location Thompson center 100 W Randolph St, Chicago, IL 60601 send in PDF format[.]"⁶ Ms. Leonard also provided a copy of the Secretary of State's Office's September 10, 2021, response to that request, which provided the requested employee roster. Ms. Leonard confirmed that the record responsive to your November 4, 2021, FOIA request is identical to the record that it provided to the FOIA requester on September 10, 2021, and that no additional responsive materials were created between September 10, 2021, and November 4, 2021.

Based on this office's review, there is no material difference between the September 8, 2021, FOIA request and your November 4, 2021, FOIA request, including the obvious similarity between the phrasing of the two FOIA requests. You have not responded to this office's multiple requests to clarify whether you dispute the Secretary of State's Office's assertions that you submitted the September 8, 2021, FOIA request at issue. Therefore, this office concludes that both the September 8, 2021, and November 4, 2021, FOIA requests were submitted by the same "person" for the purposes of section 3(g) of FOIA. Accordingly, this office has determined that your November 4, 2021, FOIA request was for the same records that were unchanged or identical to records previously provided to you, and therefore, the Secretary of State's Office properly denied your November 4, 2021, request as unduly burdensome, and that your Request for Review is unfounded. This file is closed.

If you have any questions, you may contact me by mail at the Chicago address at the bottom of the first page of this letter.

Very truly yours,

[REDACTED]
SHANNON BARNABY
Assistant Attorney General
Public Access Bureau

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⁶E-mail from [REDACTED] to [Donna Leonard], [Executive Counsel], [Illinois Secretary of State] (September 8, 2021).


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cc: *Via electronic mail*
Ms. Donna Leonard
Executive Counsel/FOIA Officer
Illinois Secretary of State
executivecounsel@ilsos.gov