

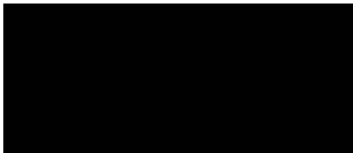


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 19, 2022

Via electronic mail



RE: FOIA Request for Review – 2022 PAC 73336

Dear [REDACTED]:

This determination letter 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 set forth below, the Public Access Bureau concludes that this Request for Review is unfounded.

On August 19, 2022, you submitted a FOIA request to the Mahomet Township Road District (District) requesting "any and all communications, documents, letters, text messages, and emails documents, of any and all descriptions, related to Sorling Northrup and the attorney summary of Gregory Moredock dated July 18, 2022 as invoice #208603."¹ After extending the time to respond by five business days, on September 2, 2022, the District provided responsive communications between the District and its attorney but redacted portions under section 7(1)(m) of FOIA (5 ILCS 140/7(1)(m) (West 2021 Supp.)), as amended by Public Acts 102-694, effective January 7, 2022, revised February 3, 2022; 102-791, effective May 13, 2022; 102-1055, effective June 10, 2022). The District denied the remaining responsive records, which consisted of FOIA responses and records previously sent to you, Mr. Chad Coit, or Ms. Lisa Slade, as an unduly burdensome repeat request pursuant to section 3(g) of FOIA (5 ILCS 140/3(g) (West 2020)). Your Request for Review contests the District's denial based upon section 3(g) of FOIA because Mr. Coit, Ms. Slade, and you are separate individuals. Your Request for Review also asks the Public Access Bureau to review alleged ethical violations.

¹Letter from [REDACTED] to Mahomet Township Road District (August 19, 2022).

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As an initial matter, you have asked this office to review alleged ethical violations by a private attorney, which are not subject to review by the Public Access Counselor. *See* 15 ILCS 205/7(c) (West 2020) (limiting the Public Access Counselor's authority to reviewing alleged violations of FOIA and the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2020))). Therefore, this office will take no further action regarding that allegation.

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 the same *person* with the responsive records or properly denied a prior, unchanged request. Section 2(b) of FOIA (5 ILCS 140/2(b) (West 2020)) defines "**person**" as "**any individual**, corporation, partnership, firm, organization or association, **acting individually or as a group**." (Emphasis added.) FOIA does not define "group," but Merriam-Webster's Dictionary defines "group" as, among other things, "a number of individuals assembled together or having some unifying relationship" such as a study group.² Thus, in order for this office to determine whether your August 19, 2022, request is as an unduly burdensome repeated request, it is necessary to assess whether you, Mr. Coit, and Ms. Slade were acting as a group, and therefore, qualify collectively as a person under the statute.

In your Request for Review, you stated that you prepared your August 19, 2022, FOIA Request to the District based on the content of a response that Mahomet Township sent to Ms. Slade. On September 14, 2022, an Assistant Attorney General (AAG) in the Public Access Bureau spoke by telephone with you.³ The AAG asked you how you obtained the records sent to Ms. Slade. You responded that she shared it with you. You also informed the AAG that there are three people that share FOIA requests and responses (yourself, Mr. Coit, and Ms. Slade) and stated the three of you discuss which records to FOIA. Based upon that information, it appears that you, Mr. Coit, and Ms. Slade act as a group for the purpose of obtaining and sharing information from the District, and possibly other public bodies. Therefore, you, Mr. Coit, and Ms. Slade qualify collectively as a "person" under the definition of that term in FOIA. FOIA does not require the District to provide you with additional copies of records that it previously provided to another member of your group. Thus, you have provided no information to this office that the District improperly designated your August 19, 2022, FOIA request as a repeated request under section 3(g) of FOIA.

²Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/group> (last visited September 19, 2022).

³During that conversation, you confirmed to the AAG that your Request for Review (1) contested the District's designation of you, Mr. Coit, and Ms. Slade as a group under FOIA; and (2) alleged ethical violations.


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Accordingly, this office has determined that this matter is unfounded, and this file is closed. If you have any questions, please contact me at 312-814-5201 or at the Chicago address listed on the bottom of the first page of this letter.

Very truly yours,

EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

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