



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 9, 2024

PUBLIC ACCESS OPINION 24-002
(Request for Review 2023 PAC 79369)

FREEDOM OF INFORMATION ACT:
Duty to Respond to FOIA Requests

Mr. Andrew Schroedter
Investigative Producer
WGN-TV
2501 West Bradley Place
Chicago, Illinois 60618

Freedom of Information Officer
Village of Dolton
14122 Dr. Martin Luther King Drive
Dolton, Illinois 60419

Dear Mr. Schroedter and Freedom of Information Officer:

This binding opinion is issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2022), as amended by Public Act 103-069, effective January 1, 2024). For the reasons discussed below, this office concludes that the Village of Dolton (Village) violated section 3(d) of FOIA (5 ILCS 140/3(d) (West 2022)) by failing to comply with, deny in whole or in part, or otherwise appropriately respond to a FOIA request submitted by Mr. Andrew Schroedter.

BACKGROUND

On November 29, 2023, Mr. Schroedter, on behalf of WGN-TV, submitted a FOIA request to the Village seeking:

- + Copies of documents sufficient to show total payments to Tiffany Henyard in 2023.
- + A copy of the current lease for Mayor Henyard's village vehicle.

500 South 2nd Street, Springfield, Illinois 62701 • (217) 782-1090 • Fax: (217) 782-7046
115 South LaSalle Street, Chicago Illinois 60603, • (312) 814-3000 • Fax: (312) 814-3806
1745 Innovation Drive, Suite C, Carbondale, Illinois 62903 • (618) 529-6400 • Fax: (618) 529-6416

Individuals with hearing or speech disabilities can reach us by using the 7-1-1 relay service.



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+ Copies of monthly statements for any and all village credit cards,
from June 1, 2023 to present.^[1]

Having received no response, on December 14, 2023, Mr. Schroedter sent an e-mail forwarding his November 29, 2023, request to Mr. Keith Freeman, the Village Administrator, and copied Village Clerk Alison Key, Mr. Michael Del Galdo, an attorney in private practice who represents the Village,² and a colleague at WGN-TV. The e-mail stated that the request was "past due[.]"³

On December 15, 2023, Mr. Schroedter submitted a Request for Review to the Public Access Counselor in which he alleged that the Village had failed to respond to his FOIA request.⁴ On December 27, 2023, the Public Access Bureau e-mailed the FOIA Officer for the Village a copy of the Request for Review and a letter asking whether the Village had received and responded to Mr. Schroedter's FOIA request.⁵ The December 27, 2023, letter also requested that if the Village had not yet responded, it do so and provide this office with a copy of its response.⁶ The Village did not respond to the Public Access Bureau's December 27, 2023, correspondence.

¹E-mail from Andrew Schroedter, Investigative Producer, Chicago's Very Own WGN, to Alison Key, [Village Clerk, Village of Dolton] (November 29, 2023).

²The agenda for the December 4, 2023, Village Board of Trustees meeting identified Mr. Del Galdo as the "Attorney." Village of Dolton Board of Trustees, Regular Meeting, Agenda Item 7.C., Executive Session (December 4, 2023).

³E-mail from Andrew Schroedter, Investigative Producer, Chicago's Very Own WGN, to Keith Freeman, [Village Administrator, Village of Dolton] Alison Key, [Village Clerk, Village of Dolton] delgaldo@dlglawgroup.com, and Ben Bradley, [Reporter, WGN-TV] (December 14, 2023).

⁴E-mail from Andrew Schroedter, Investigative Producer, Chicago's Very Own WGN, to Public Access [Bureau, Office of the Attorney General] (December 15, 2023). In that same correspondence, Mr. Schroedter also alleged that the Village had failed to respond to a second FOIA request he submitted on November 29, 2023, by e-mail to the Village Clerk. E-mail from Andrew Schroedter, Investigative Producer, Chicago's Very Own WGN, to Alison Key, [Village Clerk, Village of Dolton] (November 29, 2023). This office opened a separate Request for Review to address the second unanswered request, 2023 PAC 79370. On January 16, 2024, the Village responded to that request, asserting that it did not possess any responsive records. Letter from Freedom of Information Officer, Village of Dolton, to Andrew Schroedter (January 16, 2024).

⁵Letter from Leah Bartelt, Public Access Counselor, Public Access Bureau, Office of the Attorney General, to FOIA Officer, Village of Dolton (December 27, 2023), at 1. This office directed its e-mail to the e-mail address listed on the Village's website for FOIA requests: foia@vodolton.org. Village of Dolton, Transparency, <https://vodolton.org/transparency-2/> (last visited January 29, 2024); Village of Dolton, Village Clerk – Alison Key, <https://vodolton.org/village-clerk/> (last visited January 29, 2024).

⁶Letter from Leah Bartelt, Public Access Counselor, Public Access Bureau, Office of the Attorney General, to FOIA Officer, Village of Dolton (December 27, 2023), at 1.

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On January 11, 2024, the Public Access Bureau sent via U.S. Postal Mail a letter to the Village's Freedom of Information Officer stating that this office had not received a response to its December 27, 2023, letter; the correspondence included a copy of the December 27, 2023, letter and again requested a response.⁷ This office also e-mailed a copy of that correspondence to the FOIA Officer's e-mail address.⁸ The Village did not respond to the Public Access Bureau's January 11, 2024, letter. On January 26, 2024, the Public Access Counselor in the Public Access Bureau sent an e-mail to the FOIA Officer inquiring about the status of its response to Mr. Schroedter's November 29, 2023, FOIA request; the FOIA Officer did not respond.⁹

On January 29, 2024, Mr. Schroedter sent this office correspondence which indicated that he still had not received a response to the November 29, 2023, FOIA request at issue in this matter.¹⁰ On January 30, 2024, the Village e-mailed Mr. Schroedter a letter, dated January 17, 2024, which asserted that the Village has located five pages of records responsive to his request, and further asserted that those pages, with redactions, were attached to the letter.¹¹ Mr. Schroedter responded to that e-mail, alerting the Village that there were no records attached to its e-mail, and asking how a request seeking copies of payments to the Mayor, a vehicle lease, and five months of credit card statements, could total only five pages of responsive records.¹² The Village acknowledged receipt of that e-mail but did not provide Mr. Schroedter the five pages of records, or any other records.¹³ As of the date of the issuance of this binding opinion, this office has not received confirmation or any indication from the Village or Mr. Schroedter that the Village has substantively responded to the FOIA request.

⁷Letter from Leah Bartelt, Public Access Counselor, Public Access Bureau, Office of the Attorney General, to Freedom of Information Officer, Village of Dolton (January 11, 2024).

⁸E-mail from Leah Bartelt, Public Access Counselor, Public Access Bureau, Office of the Attorney General, to Freedom of Information Officer, [Village of Dolton] (January 11, 2024).

⁹E-mail from Leah Bartelt, Public Access Bureau, Office of the Attorney General, to foia@vodolton.org (January 26, 2024).

¹⁰E-mail from Andrew Schroedter, [Investigative Producer, Chicago's Very Own WGN,] to Leah Bartelt, [Public Access Counselor, Public Access Bureau, Office of the Attorney General] (January 29, 2024).

¹¹E-mail from foia@vodolton.org to Andrew Schroedter (January 30, 2024), attaching letter from Freedom of Information Officer, Village of Dolton, to Andrew Schroedter, [Investigative Producer, Chicago's Very Own WGN,] (January 17, 2024).

¹²E-mail from Andrew Schroedter, Investigative Producer, Chicago's Very Own WGN, to foia@vodolton.org (January 30, 2024).

¹³E-mail from foia@vodolton.org to Andrew Schroedter (January 30, 2024).

ANALYSIS

"It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with [FOIA]." 5 ILCS 140/1 (West 2022). Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2022)), "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2022)) provides that "[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act." Section 3(d) of FOIA further provides:

Each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. Denial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. A public body that fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. A public body that fails to respond to a request received may not treat the request as unduly burdensome under subsection (g).

Section 3(e) of FOIA (5 ILCS 140/3(e) (West 2022)) permits a public body to extend its response time by no more than five business days for any of seven enumerated reasons. Any additional extension requires a written agreement between the requester and the public body. 5 ILCS 140/3(e) (West 2022).

It is undisputed that the Village did not respond to Mr. Schroedter's November 29, 2023, FOIA request within five business days after its receipt by either complying with the request, extending the time for its response pursuant to section 3(e) of FOIA, or denying the request in writing. The Village's letter dated January 17, 2024, to Mr. Schroedter was not accompanied by any responsive records. The failure of the Village to comply with the requisite response procedures violated section 3(d) of FOIA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the information submitted, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On November 29, 2023, Mr. Andrew Schroedter, on behalf of WGN-TV, submitted a FOIA request to the Village of Dolton seeking copies of records showing payments

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made to the Village Mayor, the lease for the Mayor's village vehicle, and monthly credit card statements from June 1, 2023, to the date of the request.

2) On December 15, 2023, Mr. Schroedter submitted the documents required to file a Request for Review with the Public Access Counselor alleging that the Village had not responded to his FOIA request. Mr. Schroedter's Request for Review was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2022)). Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

3) On December 27, 2023, the Public Access Bureau forwarded a copy of the Request for Review to the Village along with a letter asking whether the Village had responded to Mr. Schroedter's FOIA request. The Village did not respond.

4) On January 11, 2024, the Public Access Bureau sent a second letter to the Village's FOIA officer, via both e-mail and U.S. Postal Mail, stating that the Public Access Bureau had not received any indication that the Village had responded to Mr. Schroedter's FOIA request. The Village did not respond.

5) On January 26, 2024, the Public Access Counselor e-mailed the Village's FOIA Officer requesting an update on the status of the Village's response to the request. The Village did not respond.

6) On January 30, 2024, the Village e-mailed Mr. Schroedter a letter stating that copies of five pages of records with redactions were attached. However, no records were attached to that e-mail.

7) As of the date of the issuance of this binding opinion, this office has received no information indicating that the Village has responded to Mr. Schroedter's November 29, 2023, FOIA request.

Therefore, it is the opinion of the Attorney General that the Village of Dolton has violated section 3(d) of FOIA by failing, within the statutory time for responding to Mr. Schroedter's November 29, 2023, FOIA request, to provide copies of the requested records or to deny the request in writing in whole or in part. Accordingly, the Village is hereby directed to take immediate and appropriate action to comply with this opinion by providing Mr. Schroedter with copies of all records responsive to each part of the November 29, 2023, request, subject only to permissible redactions, if any, under section 7 of FOIA (5 ILCS 140/7 (West 2022), as amended by Public Acts 103-154, effective June 30, 2023; 103-423, effective January 1, 2024; 103-462, effective August 4, 2023; 103-446, effective August 4, 2023; 103-540, effective

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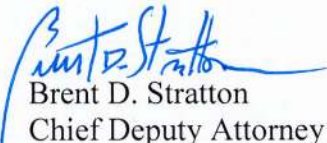
January 1, 2024; 103-554, effective January 1, 2024).¹⁴ If the Village determines that any portion of the responsive records is exempt from disclosure under section 7, it is directed to issue a written denial that fully complies with the requirements of section 9(a) of FOIA (5 ILCS 140/9(a) (West 2022)).

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2022). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Andrew Schroedter as defendants. *See* 5 ILCS 140/11.5 (West 2022).

Sincerely,

KWAME RAOUL
ATTORNEY GENERAL

By:


Brent D. Stratton
Chief Deputy Attorney General

¹⁴Because the Village did not comply with the statutory requirements for responding to Mr. Schroedter's FOIA request, the Village is precluded from treating the request as unduly burdensome or imposing copying fees for the responsive records. 5 ILCS 140/3(d) (West 2022).

CERTIFICATE OF SERVICE

Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 24-002) upon:

Mr. Andrew Schroedter
Investigative Producer
WGN-TV
2501 West Bradley Place
Chicago, Illinois 60618
aschroedter@wgntv.org

Freedom of Information Officer
Village of Dolton
14122 Dr. Martin Luther King Drive
Dolton, Illinois 60419
foia@vodalton.org

by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on February 9, 2024.



Steve Silverman
Bureau Chief

Steve Silverman
Bureau Chief
Public Access Bureau
Office of the Attorney General
100 West Randolph Street
Chicago, Illinois 60601
(312) 814-6756