



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

November 14, 2025

**PUBLIC ACCESS OPINION 25-013
(Request for Review 2025 PAC 89267)**

FREEDOM OF INFORMATION ACT:
Improper Basis for Assessing Fees for
Copies of Records Maintained in an
Electronic Format

Mr. Joshua Golden
3114 West 163rd Street
Markham, Illinois 60428

Ms. Anita Sanchez
Office Associate for the Mayor's Office
City of Markham
16313 South Kedzie Avenue
Markham, Illinois 60428

Dear Mr. Golden and Ms. Sanchez:

This binding opinion is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2024)). For the reasons discussed below, this office concludes that the City of Markham (City) assessed an improper fee in response to Mr. Joshua Golden's September 8, 2025, FOIA request.

On that date, Mr. Golden submitted a FOIA request to the City seeking a copy of the call for service or police report that he filed earlier that day; he specified that he wished to receive the record via e-mail.¹ On September 16, 2025, the City denied the request, stating that

¹E-mail from Josh Golden to foia@cityofmarkham.net (September 8, 2025).

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Mr. Golden should contact the Markham Police Records Department to purchase the report at a cost of \$5 for residents and \$10 for non-residents.² On September 17, 2025, this office received Mr. Golden's complete Request for Review contesting the City's response.³

On September 26, 2025, the Public Access Bureau forwarded a copy of the Request for Review to the City, accompanied by a letter requesting a detailed written explanation of the legal and factual basis for the fee referenced by the City, as well as a detailed explanation for any FOIA exemptions that the City asserted to be applicable to the requested record.⁴ On October 7, 2025, a City employee stated in a telephone conversation with a Supervising Attorney in the Public Access Bureau that the City was searching for the City ordinance upon which it based the fee and was still preparing a response. On October 14, 2025, having not received the City's response, this office sent a second copy of the Request for Review to the City, again requesting a written explanation of its response to Mr. Golden's FOIA request.⁵

On October 17, 2025, the City furnished its response, which did not assert that any exemptions in section 7 of FOIA (5 ILCS 140/7 (West 2024)) permitted the City to deny the request. Instead, the City directed this office to fees listed on the City's website.⁶ On that same date, this office forwarded a copy of the City's answer to Mr. Golden and notified him of his opportunity to reply in writing.⁷ Mr. Golden replied on that same date, asserting that FOIA did not permit the City to charge him a fee for the record.⁸

ANALYSIS

Section 3(b) of FOIA (5 ILCS 140/3(b) (West 2024)) provides: "Subject to the fee provisions of Section 6 of this Act, each public body shall promptly provide, to any person

²Letter from FOIA Officer, City of Markham, to [Joshua Golden] (undated and transmitted via e-mail on September 16, 2025)

³FOIA – REQUEST FOR REVIEW BY PUBLIC ACCESS COUNSELOR (PAC) from Joshua Golden (undated).

⁴Letter from Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Anita Sanchez, Office Associate for the Mayor's Office, City of Markham (September 26, 2025), at 1.

⁵Letter from Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Anita Sanchez, Office Associate for the Mayor's Office, City of Markham (October 14, 2025), at 1.

⁶E-mail from [FOIA Officer, City of Markham], to [Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General] (October 17, 2025).

⁷Letter from Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General, to Joshua Golden (October 17, 2025).

⁸E-mail from Joshua Golden to [Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General] (October 17, 2025).

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." Section 6(b) of FOIA (5 ILCS 140/6(b) (West 2024)) further provides: "**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." (Emphasis added.) Section 6(a) of FOIA (5 ILCS 140/6(a) (West 2024)), in turn, addresses fees for records maintained in electronic format:

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. **A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium. * * *** Except to the extent that **the General Assembly expressly provides**, statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format. (Emphasis added.)

In *Sage Information Services v. Humm*, 2012 IL App (5th) 110580, ¶ 18, the Illinois Appellate Court observed that section 6(a) of FOIA "does not allow a fee in excess of the cost of the electronic medium for the reproduction of electronic records unless another statute expressly provides that the fees for producing paper records also apply to electronic copies."

In its response to this office, the City stated that the fees for reports such as the requested record could be found on the City website and included a screenshot showing a portion of the Police Department's section of the "FAQs" page of the website.⁹ That portion states: "Incident Reports are \$10 for non-residents and \$5 for Markham Residents. All accident reports are \$5."¹⁰ The City did not, however, cite any provision of FOIA or any other law that establishes fees for incident reports. The City sent its response to this office via e-mail and attached an electronic copy of the record responsive to Mr. Golden's FOIA request in Portable Document Format.¹¹ Because it is apparent that the City could fulfill Mr. Golden's request in the manner he requested, via e-mail, without the need for a recording medium, the City may assess a

⁹E-mail from [FOIA Officer, City of Markham], to [Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General] (October 17, 2025).

¹⁰Markham, Illinois, FAQs, Police Department, 3. How Much are Incident/Accident Reports? <https://www.cityofmarkham.net/FAQ.aspx> (last visited October 19, 2025).

¹¹E-mail from [FOIA Officer, City of Markham], to [Benjamin J. Silver, Supervising Attorney, Public Access Bureau, Office of the Attorney General] (October 17, 2025).

copying fee for the incident report only if: (1) the fee is fixed by a statute other than FOIA;¹² and (2) the General Assembly has expressly provided that the fee applies to the report "when furnished in an electronic format."¹³

The City has not identified a statute that authorizes it to charge a \$5 fee for incident reports requested by residents and a \$10 fee for incident reports requested by non-residents. Even if the City has adopted a municipal ordinance establishing those fees, a municipal ordinance is not a statute. *Naperville v. Lerch*, 198 Ill. App. 3d 578, 583-84 (1990) (distinguishing a municipal ordinance from a statute and holding that a trial court improperly awarded attorneys' fees pursuant to a municipal ordinance when "the absence of a statute or an agreement of the parties precludes the recovery of attorney fees[.]"). Because the General Assembly has not expressly authorized a statutory fee in excess of the cost of the recording medium for electronic copies of incident reports and because the City does not need a recording medium to furnish the incident report at issue to Mr. Golden via e-mail, as he requested, the City is precluded from assessing Mr. Golden a fee for the requested report. Accordingly, the City violated section 6(a) of FOIA.¹⁴

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 September 8, 2025, Mr. Joshua Golden submitted a FOIA request to the City of Markham seeking a copy of the call for service or police report that he filed earlier that day, specifying that he wished to receive the record via e-mail.

2) On September 16, 2025, the City denied the request and stated that Mr. Golden should contact the Markham Police Records Department to purchase the report at a cost of \$5 for residents and \$10 for non-residents.

3) On September 17, 2025, this office received Mr. Golden's complete Request for Review contesting the City's response.

4) On September 26, 2025, the Public Access Bureau forwarded a copy of the Request for Review to the City, accompanied by a letter requesting a detailed written explanation of the City's response to Mr. Golden's FOIA request, including a detailed legal and factual basis

¹²5 ILCS 140/6(b) (West 2024).

¹³5 ILCS 140/6(a) (West 2024).

¹⁴For future reference, this office notes that when an incident report is requested in a format that requires the City to provide a copy on a recording medium, the same fee should apply to residents and non-residents under section 6(a) of FOIA because the City's "actual cost of purchasing the recording medium[]" is not dependent on where the requester resides.

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for the fee assessed by the City. Having received no response, this office sent follow-up correspondence to the City on October 14, 2025.

5) On October 17, 2025, the City furnished its written response via e-mail, along with a copy of the requested report in Portable Document Format.

6) On that same date, the Public Access Bureau forwarded a copy of the City's written answer to Mr. Golden and notified him of his right to reply.

7) On that same date, Mr. Golden replied.

8) Section 6(b) of FOIA provides: "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." Section 6(a) of FOIA, which governs fees for copies of electronic records, provides that a public body may only charge a requester "for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium[,]" unless "the General Assembly expressly provides[]" otherwise.

9) The City maintains the requested record in electronic format and can provide it to Mr. Golden via e-mail in Portable Document Format, with no cost for a recording medium.

10) The General Assembly has not established any other fees for the requested record.

Therefore, it is the opinion of the Attorney General that the City of Markham assessed an improper fee in response to Mr. Joshua Golden's September 8, 2025, Freedom of Information Act request. Accordingly, the City is hereby directed to take immediate and appropriate action to comply with this opinion by providing Mr. Golden with a copy of the withheld record without the assessment of a fee.

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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 2024). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Joshua Golden as defendants. *See* 5 ILCS 140/11.5 (West 2024).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:

A handwritten signature in black ink, appearing to read "Doug Rees", written over a horizontal line.

R. Douglas Rees
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

Leah Bartelt, Public Access Counselor, Public Access Bureau, hereby certifies that she has served a copy of the foregoing Binding Opinion (Public Access Opinion 25-013) upon:

Mr. Joshua Golden
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Markham, Illinois 60428
deathproof76@gmail.com

Ms. Anita Sanchez
Office Associate for the Mayor's Office
City of Markham
16313 South Kedzie Avenue
Markham, Illinois 60428
foia@cityofmarkham.net

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 November 14, 2025.



Leah Bartelt
Public Access Counselor

LEAH BARTELT
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