



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 11, 2013

Ms. Pauline Boyle
315 Ridge Road
Barrington, Illinois 60010

Mr. Robert Kosin, FOIA Officer
Village of Barrington Hills
112 Algonquin Road
Barrington Hills, Illinois 60010-5199

RE: FOIA Request for Review – 2013 PAC 22083

Dear Ms. Boyle and Mr. Kosin:

The Public Access Counselor has received Ms. Pauline Boyle's Request for Review submitted pursuant to section 9.5(a) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(a) (West 2011 Supp.)). On October 15, 2012, Ms. Boyle requested from the Village of Barrington Hills (Village) "any and all communications, reports, texts, emails etc regarding follow up of [flood and storm water contamination on Ms. Boyle's property] including that with any/all federal agencies, county agencies and state agencies."¹ On October 19, 2012, Mr. Robert Kosin, the Village's FOIA Officer, notified Ms. Boyle that the Village was extending the time for response pursuant to section 3(e)(iv) of FOIA (5 ILCS 140/3(e)(iv) (West 2010)); on October 26, 2012, the Village responded by providing Ms. Boyle with records of communications concerning storm water contamination on her property. On October 27, 2012, Ms. Boyle asserted that the records were not responsive and requested records of "any actions and e-mails, etc. that were generated from e-mail sent to [Trustee Joseph] Messer in July 2012 and mentioned at the [Board of Trustees] meeting."² Ms. Boyle also stated that she wished to receive any federal communications as well. On November 2, 2012, the Village issued a supplemental response that included copies of the e-mail Ms. Boyle requested, the minutes of the Board of Trustees meeting on July 23, 2012, a presentation before the Zoning Board of Appeals that Ms. Boyle referenced,

¹FOIA request from Pauline Boyle to the Village of Barrington Hills (October 15, 2012).

²E-mail from Pauline Boyle to Robert Kosin, FOIA Officer, Village of Barrington Hills (October 27, 2012).

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and a transcript of that meeting. On November 2, 2012, this office received an e-mail from Ms. Boyle in which she asserted that the Village failed to properly respond to her request. This office notified Ms. Boyle that a complete copy of the Village's response to her FOIA request was required for review and on November 30, 2012, Ms. Boyle provided those documents.

On December 4, 2012, this office forwarded a copy of the Request for Review to the Village asked it to explain how the Village construed Ms. Boyle's request and whether the Village possessed any additional responsive records of actions and communications in response to the e-mail sent to Trustee Messer in July 2012. On December 10, 2012, the Village responded by stating that it initially construed Ms. Boyle's FOIA request to be seeking records created before July 23, 2012, but provided additional records in its supplemental response after Ms. Boyle clarified that she was seeking records created after July 23, 2012. The Village also notified this office that it sent to Ms. Boyle copies of an August 17, 2012, memorandum and two e-mails, dated August 6, 2012, and August 17, 2012, that were not initially produced but are responsive to Ms. Boyle's request. In addition, the Village stated that it possesses additional records concerning the subject matter of Ms. Boyle's FOIA request which were created after Ms. Boyle's October 15, 2012, FOIA request and the Village's supplemental response on November 2, 2012.

FOIA provides that "all records in the custody or possession of a public body" are open to inspection or copying. 5 ILCS 140/1.2 (West 2010). The Village initially misconstrued Ms. Boyle's FOIA request as seeking records of actions and communications taken prior to the July 23, 2012, Board of Trustees meeting. After receiving clarification that Ms. Boyle was seeking records of specific actions and communications in response to her e-mail to Trustee Messer in July 2012, the Village provided additional records to Ms. Boyle. In addition, the Village conducted an additional search once it received this office's further inquiry letter and located two e-mails and a memorandum, which were provided to Ms. Boyle. With respect to records of Trustee Messer's investigation of storm water contamination on Ms. Boyle's property which were created after Ms. Boyle submitted her FOIA request, those records are not responsive to her request. Ill. Att'y Gen. PAC Req. Rev. Ltr. 17174, issued February 6, 2012 (records created after the date a FOIA request is submitted are outside the scope of the request). Ms. Boyle may wish to submit another FOIA request for those records.

Because the Village has confirmed that it provided Ms. Boyle with copies of all responsive records in its possession at the time of her FOIA request, we conclude that the Village's response and supplemental response complied with the requirements of FOIA. Accordingly, this correspondence shall serve to close the matter.

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If you have any questions, please contact me at (217) 782-9054 or the Springfield address below.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew Hartman", with a long horizontal flourish extending to the right.

MATTHEW HARTMAN
Assistant Attorney General
Public Access Bureau

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cc: Ms. Susan Horner
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