



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Kwame Raoul
ATTORNEY GENERAL

February 7, 2019

Via electronic mail

Ms. Caitlin Q. Knutte
Assistant Attorney General and Senior FOIA Officer
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
foiaofficer@atg.state.il.us

RE: FOIA Requests for Review – 2019 PAC 56591 and 56592
Requester: Mr. Matthew Hardin/Energy Policy Advocates
Date of FOIA Requests: December 20, 2018, and December 28, 2018

Dear Ms. Knutte:

Pursuant to section 9.5(a) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(a) (West 2016)), the Public Access Bureau has received Requests for Review of two responses by the Office of the Illinois Attorney General (Attorney General's Office) to FOIA requests submitted by Mr. Matthew Hardin. Enclosed are copies of the Requests for Review.

On December 20, 2018, and December 28, 2018, Mr. Hardin, on behalf of Energy Policy Advocates, submitted FOIA requests to the Attorney General's Office seeking copies of all correspondence and accompanying information sent to or from Mr. James Gignac, Mr. Matthew Dunn, and/or Mr. Jason James, between July 1, 2018, and the dates of the requests, which contain certain specific domain names or other terms. On January 7, 2019, after extending the response time by five business days, the Attorney General's Office's FOIA officer denied the first request pursuant to sections 7(1)(a) and 7(1)(f) of FOIA (5 ILCS 140/7(1)(a), (1)(f), (West 2017 Supp.), as amended by Public Act 100-732, effective August 3, 2018). The response also stated that the Attorney General's Office did not possess any responsive correspondence sent or received by Mr. Gignac. On January 14, 2019, the FOIA officer denied the second request pursuant to section 7(1)(f) of FOIA; the response again indicated that the Attorney General's Office did not possess any responsive correspondence sent or received by Mr. Gignac. Mr. Hardin's Request for Review disputes the denial of records under section 7(1)(f) and questioned

Ms. Caitlin Knutte
February 7, 2019
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whether the Attorney General's Office conducted an adequate search for correspondence sent or received by Mr. Gignac.

We have determined that further inquiry is warranted. Please provide for our confidential review unredacted copies of the records that were withheld under section 7(1)(f). Please also provide a detailed explanation of the factual and legal bases for the applicability of section 7(1)(f) of FOIA to those records.

As required under section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2016)), please provide this information to our office within seven (7) business days after receipt of this letter. As we review this matter, we will advise you if we require additional information. If you believe that other documents or information would help us as we review these issues, you may submit additional records or affidavits with the requested information.

Please note that, under FOIA, we are required to forward a copy of any response from a public body to the requester and provide the requester with an opportunity to reply (5 ILCS 140/9.5(d) (West 2016)). The Act provides, however, that "[t]o the extent that records or documents produced by a public body contain information that is claimed to be exempt from disclosure under Section 7 of [the] Act, the Public Access Counselor shall not further disclose that information." 5 ILCS 140/9.5(c) (West 2016). The Act also requires that we redact "any alleged confidential information to which the request pertains" when providing a copy of your written response to the requester. 5 ILCS 140/9.5(d) (West 2016). **If your response contains information or documents you believe are confidential, you must clearly identify that specific information in your response.**

Please contact me at (312) 814-6756 if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



STEVE SILVERMAN
Bureau Chief
Public Access Bureau

Enclosure

cc: *Via electronic mail*
Mr. Matthew Hardin
324 Logtrac Road
Stanardsville, Virginia 29973
matthewdhardin@gmail.com

APPEAL PURSUANT TO THE ILLINOIS FREEDOM OF INFORMATION ACT

January 28, 2019

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706

VIA E-mail: publicaccess@atg.state.il.us

Re: Appeal of January 7, 2019 denial (FOIA 056206)

Dear Public Access Counselor:

On behalf of Energy Policy Advocates ("EPA"), a Washington nonprofit corporation, I seek PAC review of the Attorney General's Office's January 7, 2019 response to EPA's December 208, 2018 Freedom of Information request (request and denial both attached).

Specifically, we do not appeal the withholding of two pages pursuant to Section 7(1)(a). We do, however, appeal the remainder of the withholdings.

The January 7 denial letter denies the first part part of EPA's request with a blanket declaration of privilege and exemption from disclosure, in full, every single responsive record containing any of the five, varied search term, not one of which inherently dentate confidence or privilege (@Googlegroups, com, "Google doc", Dropbox, [box.com](https://www.box.com), and/or SharePoint). It even withheld the purely factual information in each responsive record.

Illinois' statutory regime requires, rather than blanket assertions, that a FOIA Officer provide a "detailed factual analysis" when claiming exemptions. 5 ILCS 140/9. These factors are in their own right sufficient to trigger review, *de novo*, though we also note that OAG provides no explanation of what (if ay) search process it may have undertaken, how many responsive records may have been located, or what process was utilized to determine which records may have been exempt or nonexempt. OAG offers no clue to help solve the unavoidable mystery of how every word, or every responsive record, to such varied and not apparently privileged responsive records are exempt from disclosure as privileged.

It is impossible to assess the extent to which the Attorney General did, or did not, comply with the Act, without such information. However, EPA notes that the exemption cited to withhold every word of all responsive records, in full, including even purely factual information which itself is plainly and presumptively non-exempt, pertain only to inter- or intra-agency

deliberations. OAG offered no explanation of how all records were deliberative, what types of deliberations may have been ongoing, or why records could not be partially produced and partially withheld. Instead, the Attorney General withheld records in full, without explanation.

This blanket denial is a textbook case of warranting PAC review, which also is the sole means short of consuming further taxpayer, administrative and judicial resources to afford any clue as to these basics which OAG owed EPA in response to this request.

The January 7 denial letter further denies the second part of EPA's December 20 request on the grounds that the Attorney General's Office possesses no responsive records, citing "factual circumstances" which fail to explain and only create further mystery as to what led to this denial as well. The Attorney General's Office must explain, at a minimum, what the search process entailed and what employees were involved in the search for records. 5 ILCS 140/9.

Regards,

Matthew D. Hardin
Executive Director
Energy Policy Advocates

REQUEST UNDER THE ILLINOIS FREEDOM OF INFORMATION ACT

December 20, 2018

Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62701

Via Facsimile: (217) 782-1396
RE: Certain OAG correspondence

To Whom It May Concern:

On behalf of Energy Policy Advocates, a non-profit public policy institute incorporated in Washington State, I request pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, please provide us copies of all electronic or hard-copy correspondence as described below, and its *accompanying information,¹ including also any attachments:*

- a) sent to or from (including also copying, whether as cc: or bcc:) **James Gignac, Matthew Dunn, and/or Jason James**, which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) SherEdling, ii) Sher Edling, iii) DAGA, iv) @democraticags.org, v) alama@naag.org, and/or vi) Mike.Firestone@state.ma.us.

These terms are not case sensitive.

Records responsive to this request will be dated from **July 1, 2018** through the date you process this request. We request the entire thread in which any email responsive to the above description appears regardless of if portions of the thread(s) pre-date 2018.

This request contemplates such information sent or received on official as well as non-official email addresses used at any time for work-related purposes, text and other instant messaging on any phone or device used at any time for work-related correspondence.

Please consider as responsive entire email "threads" containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs. If there is any cost associated with the searching, copying or production of these records, however, please also notify me in writing

¹ See discussion of SEC Data Delivery Standards, *infra*.

immediately. Please provide an estimate of anticipated costs in the event that there are fees for processing this Request.

Energy Policy Advocates requests records on your system, e.g., its backend logs, and does not seek only those records which survive on an employee's own machine or account. We do not demand your Office produce requested information in any particular form, instead **we request records in their native form, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.**² The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, "Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. *(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)*" (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

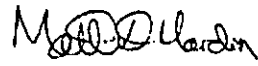
Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

We look forward to your timely response within a reasonable time, as required by law. If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email at MatthewDHardin@gmail.com. I look forward to your timely response.

² <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin
Executive Director, Energy Policy Advocates



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

January 7, 2019

Lisa Madigan
ATTORNEY GENERAL

VIA ELECTRONIC MAIL
Mr. Matthew Hardin
Energy Police Advocates
MatthewDHardin@gmail.com

RE: Freedom of Information Act Request
2018 FOIA 056206

Dear Mr. Hardin:

Thank you for writing to the Office of the Illinois Attorney General with your request for information pursuant to the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)).

In a facsimile received on December 20, 2018, you requested the following:

[(1)] [A]ll electronic or hard-copy correspondence as described below and *its accompanying information, including also any attachments:*

- a) sent to or from (including also copying, whether as cc: or bcc:)
* * * **Matthew Dunn, and/or Jason James, which also**
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) SherEdling, ii) Sher Edling, iii) DAGA, iv) @democraticags.org, v) **alama@naag.org**, and/or vi) **Mike.Firestone@state.ma.us**.
(Bold and italics in original.)

RESPONSE: Pursuant to section 3(e)(v) of FOIA (5 ILCS 140/3(e)(v) (West 2016)), we extended the time to respond to this portion of your request by five business days on December 28, 2018, because the records required further examination to determine if they were exempt from disclosure or should be released with appropriate redactions. This office has now completed its review.

Matthew Hardin
January 7, 2019
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This portion of your request is denied pursuant to sections 7(1)(a) and 7(1)(f) of FOIA. 5 ILCS 140/7(1)(a), (f) (West 2017 Supp.).

Section 7(1)(a)

Section 7(1)(a) of FOIA exempts from disclosure "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." The federal Copyright Act (17 U.S.C. §101 *et seq.* (2014)) provides that "the owner of [a] copyright * * * has the *exclusive* rights to do and to authorize any of the following:"

(1) to reproduce the copyrighted work in copies[;] [and]

* * *

(3) to distribute copies * * * of the copyrighted work to the public by sale or other transfer of ownership[.]" (Emphasis added.) 17 U.S.C. §§106(1), (3) (2014).

The Office of the Attorney General maintains a subscription to the publication, Capitol Fax. Mr. Dunn received a copy of a Capitol Fax responsive to your request. The Capitol Fax is a copyrighted work. Accordingly, this office is withholding a 2 page Capitol Fax publication sent on November 1, 2018, that contains a story entitled, "DAGA up with TV ad attacking Harold on abortion" and that constitutes a copyrighted work, exempt from copying and distribution pursuant to section 7(1)(a) of FOIA and the Copyright Act. Please note that the withheld record itself does not contain any notes, writings, or other annotations that were created by this office.

While this office is prohibited from copying and distributing the responsive copyrighted work, we may make the record available for public inspection. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 11145, issued January 12, 2011. If you would like to review a copy of the Capitol Fax received by this office, you may do so at the Attorney General's Chicago or Springfield offices during normal business hours. Please contact me at (312) 814-1493 if you wish to schedule a time to review the indicated records.

Section 7(1)(f)

Section 7(1)(f) of FOIA exempts from disclosure "[p]reliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated[.]" "Courts have extended section 7(1)(f) to communications *between government agencies* * * * whose analyses and recommendations 'played essentially the same

Matthew Hardin
January 7, 2019
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part in an agency's process of deliberation as documents prepared by agency personnel might have done." (Emphasis added.) Ill. Att'y Gen. PAC Req. Rev. Ltr. 19002, issued May 23, 2012, citing *Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (2003), quoting *Department of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 10, 121 S. Ct. 1060, 1067 (2001). The records that we have determined are exempt under this section consist of internal e-mail communications of this office, e-mail communications with other government agencies, and preliminary drafts written for the purpose of planning courses of action with regard to legal and legislative matters. These records are predecisional. They are exempt under the rationale that public bodies must be able to evaluate information internally, as well as with other government agencies that may be similarly affected by the information, to explore possible courses of action confidentially before making final determinations that should be shared with the public. See Ill. Att'y Gen. PAC Req. Rev. Ltr. 19002, issued May 23, 2012; *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (2003) ("as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process"). Accordingly, some of the records responsive to your request are exempt from disclosure under section 7(1)(f).

You have a right to have the denial of this portion of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a) (West 2016). You may file your request for review with the PAC by writing to:

Sarah Pratt
Public Access Counselor
Office of the Illinois Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: (217) 782-1396
publicaccess@atg.state.il.us

If you choose to file a request for review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a) (West 2016). Please note that you must include a copy of your original FOIA request and of this denial letter when filing a request for review with the PAC.

You also have the right to judicial review of your denial by filing suit in the appropriate Illinois court. 5 ILCS 140/11 (West 2016).

In your facsimile received on December 20, 2018, you also requested the following:

Matthew Hardin
January 7, 2019
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[(2)] [A]ll electronic or hard-copy correspondence as described below and *its accompanying information, including also any attachments*:

- a) sent to or from (including also copying, whether as cc: or bcc:) **James Gignac, * * *** which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) SherEdling, ii) Sher Edling, iii) DAGA, iv) @democraticags.org, v) *alama@naag.org*, and/or vi) *Mike.Firestone@state.ma.us*. (Bold and italics in original.)

RESPONSE: On December 28, 2018, we advised you that this office had conducted a search of its records, and we located no records responsive to this portion of your request.

Very truly yours,



CAITLIN Q. KNUTTE
Assistant Attorney General
Senior FOIA Officer

CQK:ga

APPEAL PURSUANT TO THE ILLINOIS FREEDOM OF INFORMATION ACT

January 28, 2019

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, IL 62706

VIA E-mail: publicaccess@atg.state.il.us

Re: Appeal of January 14, 2019 denial (FOIA 056258)

Dear Public Access Counselor:

On behalf of Energy Policy Advocates ("EPA"), a Washington nonprofit corporation, I seek PAC review of the Attorney General's Office's January 14, 2019 response to EPA's December 28, 2018 Freedom of Information request (request and denial both attached).

The January 14 denial letter denies the first part part of EPA's request with a blanket declaration of privilege and exemption from disclosure, in full, every single responsive record containing any of the five, varied search term, not one of which inherently dentate confidence or privilege (@Googlegroups, com, "Google doc", Dropbox, box.com, and/or SharePoint). It even withheld the purely factual information in each responsive record.

Illinois' statutory regime requires, rather than blanket assertions, that a FOIA Officer provide a "detailed factual analysis" when claiming exemptions. 5 ILCS 140/9. These factors are in their own right sufficient to trigger review, *de novo*, though we also note that OAG provides no explanation of what (if ay) search process it may have undertaken, how many responsive records may have been located, or what process was utilized to determine which records may have been exempt or nonexempt. OAG offers no clue to help solve the unavoidable mystery of how every word, or every responsive record, to such varied and not apparently privileged responsive records are exempt from disclosure as privileged.

It is impossible to assess the extent to which the Attorney General did, or did not, comply with the Act, without such information. However, EPA notes that the exemption cited to withhold every word of all responsive records, in full, including even purely factual information which itself is plainly and presumptively non-exempt, pertain only to inter- or intra-agency deliberations. OAG offered no explanation of how all records were deliberative, what types of deliberations may have been ongoing, or why records could not be partially produced and partially withheld. Instead, the Attorney General withheld records in full, without explanation.

This warrants PAC review, indeed cries out for such review, which also is the sole means short of consuming further taxpayer, administrative and judicial resources to afford any clue as to these basics which OAG owed EPA in response to this request.

The January 14 denial letter further denies the second part of EPA's December 28 request on the grounds that the Attorney General's Office possesses no responsive records, citing "factual circumstances" which fail to explain and only create further mystery as to what led to this denial as well. The Attorney General's Office must explain, at a minimum, what the search process entailed and what employees were involved in the search for records. 5 ILCS 140/9.

Regards,

Matthew D. Hardin
Executive Director
Energy Policy Advocates

REQUEST UNDER THE ILLINOIS FREEDOM OF INFORMATION ACT

December 28, 2018

Illinois Attorney General's Office
500 South Second Street
Springfield, IL 62701

By FAX: (217) 782-1396

RE: Certain OAG correspondence — Googlegroups, Google Docs, Dropbox

To Whom It May Concern:

On behalf of Energy Policy Advocates (EPA), a non-profit public policy institute incorporated in Washington state, and pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1, I request copies of all electronic or hard-copy correspondence as described below, and its *accompanying information,¹ including also any attachments:*

- a) sent to or from (including also copying, whether as cc: or bcc:) **James Gignac, Matthew Dunn, and/or Jason James**, which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) @Googlegroups.com, ii) "Google doc" (including also in "Google Docs", iii) Dropbox, iv) box.com (including as used in any url containing box.com), and/or v) SharePoint.

These terms are not case sensitive.

Records responsive to this request will be dated from **July 1, 2018** through the date you process this request. We request the entire thread in which any email responsive to the above description appears regardless if portions of the thread(s) pre-date 2018.

This request contemplates such information sent or received on official as well as non-official email addresses used at any time for work-related purposes, text and other instant messaging on any phone or device used at any time for work-related correspondence.

Please consider as responsive entire email "threads" containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs. If there is any cost associated with the searching, copying or production of these records, however, please also notify me in writing

¹ See discussion of SEC Data Delivery Standards, *infra*.

immediately. Please provide an estimate of anticipated costs in the event that there are fees for processing this Request.

Energy Policy Advocates requests records on your system, e.g., its backend logs, and does not seek only those records which survive on an employee's own machine or account. We do not demand your Office produce requested information in any particular form, instead we request records in their native form, with specific reference to the U.S.

Securities and Exchange Commission Data Delivery Standards.² The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, "Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. *(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)*" (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

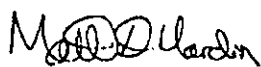
Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

We look forward to your timely response within a reasonable time, as required by law. If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. I look forward to your timely response.

² <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin
Executive Director
Energy Policy Advocates



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 14, 2019

VIA ELECTRONIC MAIL
Mr. Matthew Hardin
Energy Police Advocates
MatthewDHardin@gmail.com

RE: Freedom of Information Act Request
2018 FOIA 056258

Dear Mr. Hardin:

Thank you for writing to the Office of the Illinois Attorney General with your request for information pursuant to the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)).

In a facsimile received on December 28, 2018, you requested the following:

[(1)] [A]ll electronic or hard-copy correspondence as described below and *its accompanying information, including also any attachments*:

- a) sent to or from (including also copying, whether as cc: or bcc:)
* * * **Matthew Dunn, and/or Jason James, which also**
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) @Googlegroups.com, ii) "Google doc" (including also in "Google Docs"[]), iii) Dropbox, iv) box.com (including as used in any url containing box.com), and/or v) SharePoint.

These terms are not case sensitive.

Matthew Hardin
January 14, 2019
Page 2

Record responsive to this request will be dated from **July 1, 2018** through the date you process this request. We request the entire thread in which any email responsive to the above description appears regardless if portion of the thread (s) pre-date 2018. (**Bold**, *italics*, and underscore in original.)

RESPONSE: Pursuant to section 3(e)(v) of FOIA (5 ILCS 140/3(e)(v) (West 2016)), we extended the time to respond to this portion of your request by five business days on January 7, 2019, because the records required further examination to determine if they were exempt from disclosure or should be released with appropriate redactions. This office has now completed its review.

This portion of your request is denied pursuant to section 7(1)(f) of FOIA. 5 ILCS 140/7(1)(f) (West 2017 Supp.). Section 7(1)(f) of FOIA exempts from disclosure "[p]reliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated[.]" "Courts have extended section 7(1)(f) to communications *between government agencies* * * * whose analyses and recommendations 'played essentially the same part in an agency's process of deliberation as documents prepared by agency personnel might have done.'" (Emphasis added.) Ill. Att'y Gen. PAC Req. Rev. Ltr. 19002, issued May 23, 2012, citing *Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (2003), quoting *Department of the Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 10, 121 S. Ct. 1060, 1067 (2001). The records that we have determined are exempt under this section consist of internal e-mail communications of this office and e-mail communications with other government agencies that were written for the purpose of planning courses of action with regard to legal and legislative matters. These records are predecisional. They are exempt under the rationale that public bodies must be able to evaluate information internally, as well as with other government agencies that may be similarly affected by the information, to explore possible courses of action confidentially before making final determinations that should be shared with the public. See Ill. Att'y Gen. PAC Req. Rev. Ltr. 19002, issued May 23, 2012; *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (2003) ("as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process"). Accordingly, the records responsive to this portion of your request are exempt from disclosure under section 7(1)(f).

You have a right to have the denial of this portion of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a) (West 2016). You may file your request for review with the PAC by writing to:

Matthew Hardin
January 14, 2019
Page 3

Sarah Pratt
Public Access Counselor
Office of the Illinois Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: (217) 782-1396
publicaccess@atg.state.il.us

If you choose to file a request for review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a) (West 2016). Please note that you must include a copy of your original FOIA request and of this denial letter when filing a request for review with the PAC.

You also have the right to judicial review of your denial by filing suit in the appropriate Illinois court. 5 ILCS 140/11 (West 2016).

In your facsimile received on December 28, 2018, you also requested the following:

[(2)] [A]ll electronic or hard-copy correspondence as described below and *its accompanying information, including also any attachments*:

- a) sent to or from (including also copying, whether as cc: or bcc:) James Gignac * * *, which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) @Googlegroups.com, ii) "Google doc" (including also in "Google Docs"[D]), iii) Dropbox, iv) box.com (including as used in any url containing box.com), and/or v) SharePoint.

These terms are not case sensitive.

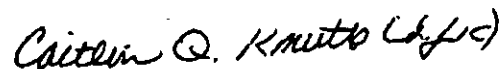
Record responsive to this request will be dated from July 1, 2018 through the date you process this request. We request the entire

Matthew Hardin
January 14, 2019
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thread in which any email responsive to the above description appears regardless if portion of the thread (s) pre-date 2018. (Bold, italics, and underscore in original.)

RESPONSE: On January 7, 2019, we advised you that this office had conducted a search of its records, and we located no records responsive to this portion of your request.

Very truly yours,



CAITLIN Q. KNUTTE
Assistant Attorney General
Senior FOIA Officer

CQK:ga