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LEGAL ALERT

PAC RULES THAT COMPLETE LETTER OF RESIGNATION SUBMITTED BY VILLAGE OFFICIAL MUST BE DISCLOSED

The Illinois Attorney General found that the Village of Hudson violated FOIA by improperly redacting information from an e-mail submitted by the Village President announcing his resignation. The email included the President's reasoning for resigning, including a general assertion regarding an employee termination issue and the President's opinions regarding improper conduct of the Village Board. The Attorney General concluded that the redacted information involving an employee termination matter could not be considered exempt under FOIA as "an adjudication of an employee grievance" (since there was no formal hearing process). Further, the Attorney General determined the redacted information involving the President's opinions was not exempt as "a record in which an opinion is expressed that is not the final policy of the Village", as argued by the Village. Rather, the Attorney General determined that the exception for preliminary opinions of public officials only applies to the opinions of public officials while creating government policy and did not protect factual material or final local government decisions, such as the resignation letter.

Public Access Opinion 18-001 (January 23, 2018)

A summary of this opinion is set forth hereafter.

A full copy of the Public Access Opinion is available at the following link:

[Public Access Opinion 18-001](#)



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PAC RULES THAT COMPLETE LETTER OF
RESIGNATION SUBMITTED BY VILLAGE OFFICIAL
MUST BE DISCLOSED (CONT'D).

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Summary of Public Access Opinion 18-001:

Public Access Opinion 18-001 found that the Village of Hudson (the “Village”) violated the requirements of FOIA by improperly redacting information from an e-mail sent to the Village by the Village President announcing his resignation. Included in the email letter were the President’s opinions about certain actions of the Village Board that he did not agree with and a reference to a questionable employee termination.

The Village received a FOIA request from a local radio station seeking “an unredacted” copy of the resignation letter of the Village’s former Village President. The Village provided a copy of the email “letter” of resignation in response, but redacted a portion of the letter, consisting of approximately 3 lines of text including certain opinion matters and the employee termination. The Village redacted this information contending it was exempt under Section 7(n) of FOIA as an adjudication of an employee grievance and that it was record in which an opinion was expressed that was not yet the final policy of the Village, citing 7(1)(f) of FOIA.

The Attorney General considered the Village’s argument that the redacted lines were exempt from disclosure under section 7(1)(n) as “[r]ecords relating to a public body’s adjudication of employee grievances or disciplinary cases ...” and concluded that the “record in question does not appear to have been generated during any formalized legal proceeding that could be considered an ‘adjudication.’” Thus, the AG found that the Village failed to sustain its burden of demonstrating that the redacted information was exempt from disclosure under section 7(1)(n). As for the Village’s exemption argument under section 7(1)(f) exempting preliminary opinions or recommendations, the Attorney General found that the former President’s email represented a final decision about his tenure and thus could not be considered a part of a pre-decisional, deliberative process. The Attorney General noted that this exception applies only to the opinions of public officials while creating government policy and that it does not protect factual material or final agency decisions. The Attorney General then found that the Village failed to sustain its burden to demonstrate that the redacted information was exempt. The Attorney General directed the Village to provide an un-redacted copy of the resignation e-mail of the former Village President to the requester.