

December 30, 2015

**VIA E-MAIL**

Mr. Daniel Hamilton  
Brown, Hay & Stephens, LLP  
Email: [dhamilton@bhslaw.com](mailto:dhamilton@bhslaw.com)

RE: 15-FOIA-259 Davidoff Communications - 3/16/15 – 3/30/15

Dear Mr. Hamilton:

We are in receipt of your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (“**FOIA**”).

**I. Background**

On December 14, 2015, we received your request for:

Copies of any and all communications, recommendations, and documents related to work performed by the firm Davidoff Communications on behalf of or in any way related to Metra, dated or occurring on or a date between March 16, 2015 and March 30, 2015. This request shall include, but not be limited to: (1) any and all communications by and between Davidoff Communications (or any intermediary acting on or behalf of Davidoff Communications) and Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members (or any intermediary acting on or behalf of Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members), and (2) any and all recommendations and/or documents provided by or to Davidoff Communications by or to any Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members (or any intermediary acting on or behalf of Davidoff Communications, Metra staff, Metra Officials, Metra Officers, Agents of Metra, Metra Board Members)

(“**Request**”). Your Request is granted in part and denied in part.

**II. Responsive Documents**

In response to your Request, Metra is providing you all communications and documents between Davidoff Communications and Metra personnel between March 17 – March 25, 2015 (“**Responsive Documents**”).

After performing a diligent search of Metra’s records, we have been unable to locate any records responsive to your request for the time periods of March 16, and March 26 – March 30, 2015.

**III. Denial**

Attorney Thomas Stuebner has determined that of the 112 documents reviewed, 7 pages are being withheld in their entirety under section 7(1)(f) of FOIA. Section 7(1)(f) exempts from disclosure any “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are

expressed, or policies or actions are formulated . . . [.]” 5 ILCS 140/7(1)(f). Accordingly, the aforementioned pages are draft documents exempt under Section 7(1)(f).

Additionally, 19 pages are being withheld in their entirety under section 7(1)(h) of FOIA. Section 7(1)(h) of FOIA authorizes units of government to withhold:

Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award of final selection is made. 5 ILCS 140/7(1)(h).

As such, Attorney Thomas Stuebner has determined withholding these pages is proper under section 7(1)(h) of FOIA because this information “[s]hall be exempt until an award or final selection is made.”

#### **IV. Right of Review**

You have the right to have the denial of your Request reviewed by the Public Access Counselor (“PAC”) of the Illinois Attorney General’s Office. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor  
Office of the Attorney General  
500 South 2nd Street  
Springfield, Illinois 62706  
Fax: 217-782-1396  
E-mail: [publicaccess@atg.state.il.us](mailto: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). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,



Kathleen E. Haton  
Freedom of Information Officer  
[FOIA@metrarr.com](mailto:FOIA@metrarr.com)

Attachment