



February 5, 2018

Andrew L. Forrest

Re: FOIA 18-0023

Dear Mr. Forrest:

The Illinois Tollway is in receipt of your FOIA request on January 22, 2018, for Illinois Tollway Office of the Inspector General investigation records for former employee Andrew Forrest, equipment operator laborer, including why an OIG investigation was opened, the OIG source of information and conclusion of the investigation.

We have completed the review of your request, and your request is denied for the following reasons:

The FOIA (5 ILCS 140/7.5) provides for a statutory exemption of records of lawfully created State Inspector General Offices, such as the Illinois Tollway's Inspector General's Office (see, 605 ILCS 10/1 et seq.) The documents from the entire file are exempt from disclosure under Section 7.5(h) of the Freedom of Information Act that makes records the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office exempt if created or obtained by an Executive Inspector General's office under that Act. 5 ILCS 140/7.5(h).

Please note, the Illinois Tollway and the Inspector General do not have any discretion in this matter and cannot waive the exemption, "Subject to the provisions of subsection (e) of this Section, the Toll Highway Inspector General, and employees and agents of the Office of the Toll Highway Inspector General, *shall keep confidential and shall not disclose information exempted from disclosure* under the Freedom of Information Act or by this Act." 605 ILCS 10/8.5(k)(2).

Specifically, the exemption under Section 7.5 of the Freedom of Information Act incorporates Section 95(d) of the State Employees & Officers Ethics Act, section 5 ILCS 430/20-95, provides: (d) "Unless otherwise provided in this Act, *all investigatory files and reports of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency*, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdiction authority, (iii) to the Executive Ethics Commission, (iv) to another Inspector General appointed pursuant to this Act, or (v) to an Inspector General appointed or employed by a Regional Transit Board in accordance with Section 75-10.

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Additionally, in response to the request for the OIG source of information for the investigation, state law requires that the identity of any individual reporting misconduct to the OIG be kept confidential and may not be disclosed absent consent or as required by law. See 605 ILCS 10/8.5 (k)(1).

Finally, responding further to the request for records relating to the conclusion of the investigation, the Toll Highway Act provides that when the OIG determines that there is reasonable cause to believe that misconduct has occurred, it will issue a summary report of investigation to the appropriate authority. See 605 ILCS 10/8.5 (e)(1). In addition, the Inspector General shall provide a summary of reports and investigations no later than March 31 and September 30 of each year. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports of investigations. See 605 ILCS 10/8.5 (m). Finally, if an OIG summary report results in a suspension of at least 3 days or termination, the OIG shall make the report, with appropriate redactions, available to the public within 60 days by presenting it to the Board and posting it to the Authority's public website. 605 ILCS 10/8.5(e)(3)

Please note that this determination was made by Joelle McGinnis, Freedom of Information Officer, and Theodor John Hengesbach, Illinois Tollway Inspector General. You have a right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 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
Email: 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 denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

Respectfully,

Joelle McGinnis
Freedom of Information Officer