



IDFPR
Illinois Department of
Financial and Professional Regulation
Division of Professional Regulation

www.idfpr.illinois.gov

JB PRITZKER
Governor

CECILIA ABUNDIS Director

MARIO TRETO, JR. Secretary

August 24, 2023

RE: Freedom of Information Act Request

Dear Mr. Preston,

The Department of Financial and Professional Regulation (Department) received your Freedom of Information Act (FOIA) [5 ILCS 140/1 et seq.] request on August 18, 2023, requesting:

- 1. A list and details of all fines levied against cannabis cultivators and cannabis dispensaries by the Illinois Department of Financial and Professional Regulation from January 1, 2020, through August 15, 2023.*
- 2. Any correspondence, notices, or reports related to the aforementioned fines, including the reasons for each fine, the entities or individuals fined, the date for each fine, and the amount of each fine.*
- 3. Any documentation or correspondence related to transportation and security violations at cannabis cultivation sites or dispensaries during the specified period.*
- 4. If there are no records of fines levied against dispensaries or cultivators during the specified period, please provide a statement affirming the absence of fines.*

This letter is the Department's response to your request.

1-A list and details of all fines levied against cannabis cultivators and cannabis dispensaries by the Illinois Department of Financial and Professional Regulation from January 1, 2020, through August 15, 2023.

As to #1 regarding cultivators, your request is denied. The Department does not license cultivators. Please consider contacting the Illinois Department of Agriculture at AGR.FOIA@Illinois.Gov.

Regarding dispensary fines, please see this link:

<https://idfpr.illinois.gov/news/disciplines/discreports.html> for the information that is responsive to #1 and #2 of your request. Because these records are available online, FPR is not required by

the Freedom of Information Act to produce these records.

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(5 ILCS 140/8.5)

Sec. 8.5. Records maintained online.

(a) Notwithstanding any provision of this Act to the contrary, a public body is not required to copy a public record that is published on the public body's website. The public body shall notify the requester that the public record is available online and direct the requester to the website where the record can be reasonably accessed.

(b) If the person requesting the public record is unable to reasonably access the record online after being directed to the website pursuant to subsection (a) of this Section, the requester may re-submit his or her request for the record stating his or her inability to reasonably access the record online, and the public body shall make the requested record available for inspection or copying as provided in Section 3 of this Act.

2-Any correspondence, notices, or reports related to the aforementioned fines, including the reasons for each fine, the entities or individuals fined, the date for each fine, and the amount of each fine.

Please note that your request for correspondence, notices, and reports is denied. While much of this information is available on the above-noted site, the request for “any correspondence, notices, or reports...” is vague and unduly burdensome. For the Department to properly respond to your FOIA request you must reasonably describe the needed records with sufficient specificity for IDFPR to determine what records are being requested. *See Chicago Tribune Co. v. IDFPR*, 380 Ill. Dec. 80, 88 (Ill. App. 4th Dist. 2014)(“A request to inspect or copy must reasonably identify a public record and not general data, information, or statistics.”)

Further, this request would require the Department staff to manually review hundreds of files. The Department does not have the staffing resources to accommodate such a request while continuing to respond within statutorily set requirements to other FOIA requests, putting an undue burden on operations, which outweighs the public interest in the information pursuant to Section 3(g) of FOIA [5 ILCS 140/3(g)].

Accordingly, we invite you to narrow your request to more manageable proportions, as defined by Section 3(g) of FOIA [5 ILCS 140/3(g)].

Section 3(g) of FOIA states in pertinent part as follows:

Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it

would be unduly burdensome and the extent to which compliance will so burden

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the operations of the public body. Such a response shall be treated as a denial of
the request for information.

3- Any documentation or correspondence related to transportation and security violations at cannabis cultivation sites or dispensaries during the specified period.

This request is denied; complaints and investigations are exempt from disclosure pursuant to Sections 7(1)(a) of FOIA, Section 2105-117 of the Civil Administrative Code, and Sections 1326.220(b)(1) and (3) of the Illinois Administrative Code [5 ILCS 140/7(1)(a); 20 ILCS 2105/2105-117; 2 Ill. Admin. Code 136.220(b)(1) & (3)].

Section 7(1) of FOIA states in pertinent part as follows:

Sec. 7. Exemptions.

- (1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. Subject to this requirement, the following shall be exempt from inspection and copying:
 - (a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

Section 2105-117 of the Civil Administrative Code states:

Sec. 2105-117. Confidentiality.

All information collected by the Department in the course of an examination or investigation of a licensee, registrant, or applicant, including, but not limited to, any complaint against a licensee or registrant filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, other regulatory agencies that have an appropriate regulatory interest as determined by the Director, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person...

Section 1326.220 of the Illinois Administrative Code states in pertinent part:

In response to a request submitted pursuant to FOIA, the Division will not disclose certain records as provided in this section. Records covered under this section include, but are not limited to;

b) Division of Professional Regulation and Division of Real Estate

1) Complaints received by the Department against licensees or unlicensed persons or entities, except as provided by statute

3) Investigative files maintained by the Division

4-If there are no records of fines levied against dispensaries or cultivators during the specified period, please provide a statement affirming the absence of fines.

Please see the above-noted links. As to providing a “statement affirming the absence of fines”, that request is denied. FOIA is for requesting documents. Pursuant to Section 7(1)(a) of FOIA and Section 1326.430(a)(3) of the Illinois Administrative Code, the Department does not have to create or prepare a record that it does not maintain [5 ILCS 140/7(1)(a); 2 Ill. Admin. Code 1326.430(a)(3)].

Section 1326.430 of the Illinois Administrative Code states in pertinent part:

Section 1326.430 Denials of Requests for Records

a) The Division will deny FOIA requests for records when:

3) Compliance with the request would require the Division to create or prepare a record that it does not maintain

This determination has been made by the Illinois Department of Financial and Professional Regulation, FOIA Officer Kathleen Anderson.

You have the right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. You can file your Request for Review with the PAC by writing to:

Leah Bartelt
Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
(877) 299-3642
Email: public.access@ilag.gov

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

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.

Please contact me should you have any concerns.

Sincerely,
Kathleen Anderson
FOIA Officer
IDFPR