



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 12, 2010

Ms. Nancy Sujet
Administrative Assistant
Village of Lake in the Hills
600 Harvest Gate
Lake in the Hills, Illinois 60156

RE: Pre-Authorization Request – 2010 PAC 6144

Dear Ms. Sujet:

We have received and reviewed the written notice from the Village of Lake in the Hills (Village) of its intent to deny disclosure of certain information as exempt from disclosure under subsection 7(1)(c) of the Freedom of Information Act, 5 ILCS 140/1 *et seq.* as amended (FOIA). The Village received a FOIA request from [REDACTED] on March 3, 2010, seeking "Report # L10-805 re: school incident involving a student which whom I work with" (Police Report).

The Village has asserted that it intends to deny disclosure of witness dates of birth in the Police Report as exempt from disclosure under subsection 7(1)(c) of FOIA. Subsection 7(1)(c) exempts from inspection and copying "personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). "Unwarranted invasion of personal privacy" means "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees shall not be considered an invasion of personal privacy." *Id.*

The Village's use of this exemption with regard to the witness dates of birth is approved. An individual's date of birth is highly personal information that could be used to commit fraud or identity theft. Moreover, these private citizens' right to privacy with respect to their dates of birth outweighs any legitimate public interest in obtaining this information from the Police Report. Thus, the disclosure of dates of birth in this scenario would constitute a clearly unwarranted invasion of personal privacy to the witnesses.

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The Village has also asserted that it intends to deny disclosure under subsection 7(1)(b) of the home addresses and personal telephone numbers of certain individuals named in the Police Report. Use of this exemption to deny disclosure of information does not require preapproval from our office, and we decline to independently determine whether use of the exemption is appropriate in this case.

Finally, the Village has asserted that it intends to deny disclosure of the names of certain students as exempt from disclosure under the "Juvenile Act, 705 ILCS 405/1-7(A)(1)". Subsection 7(1)(a) of FOIA exempts from inspection and copying "[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law." Use of this exemption to deny disclosure of information does not require preapproval from our office. We decline to independently determine whether use of the exemption is appropriate in this case or whether subsection 1-7(A)(1) of the Juvenile Court Act of 1987 applies to the student names in question.

As such, the Village should issue a partial denial letter directly to [REDACTED] and release the Police Report to [REDACTED] with information redacted as the Village deems appropriate. If you have any questions, please feel free to contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

B [REDACTED]

Sara Gadola Gallagher
Deputy Public Access Counselor

cc: [REDACTED]