



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 23, 2010

Ms. Elizabeth Gerber
Freedom of Information Officer
Highland Community College
2998 W. Pearl City Road
Freeport, Illinois 61032

RE: Request for Pre-Approval of Exemption 7(1)(f) – No. 6249

Dear Ms. Gerber:

We have received and reviewed the written notice from the Highland Community College of its intent to deny access to and withhold certain records, apparently in their entirety as requested by [REDACTED] as exempt from disclosure under subsection 7(1)(f) of the Freedom of Information Act. 5 ILCS 140/9.5(b).

It appears from a review of your correspondence, however, that you are seeking to rely upon exemptions other than Sections 7(1)(c) (clearly unwarranted invasion of privacy) or 7(1)(f) (deliberative process) as justification for not releasing the information requested.

Please note that pre-approval of exemptions other than 7(1)(c) and 7(1)(f) do not require the pre-authorization of this office. As such, to the extent you believe other exemptions are applicable to permit the withholding of some or all of the information sought, you may assert those exemptions directly to the requester in a denial letter, as set forth in the Freedom of Information Act, Section 9: **“(a) Each public body denying a request for public records shall notify the requester in writing of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public body shall also such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial shall inform such person of his right to judicial review under Section 11 of this Act. (b) When a request for public records is denied on the grounds that the records are exempt under Section 7 of this Act, the notice of denial shall specify the exemption claimed to authorize the**

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denial and the specific reasons for the denial, including a detailed factual basis and a citation to supporting legal authority.” 5 ILCS 140/9. (emphasis added).

It appears from your correspondence that you intend to rely upon exemptions not set forth under either Section 7(1)(c) of 7(1)(f), but not identified as required above, perhaps subsections 7(1)(j), 7(1)(q) and/or 7(1)(a). Unfortunately, you have not clearly identified the same as the Act requires.

As such, your request for pre-approval to exempt the information requested under Section 7(1)(f) of the Act is **denied**, and you should either provide the records requested within the time limits set forth within the Act, or issue a denial citing the specific exemptions upon which you rely, as set forth hereinabove.

Finally, please note that you do have the right to inquire of the requester as to whether the information is sought for a commercial purpose. It is a violation of the Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose if asked. 5 ILCS 140/3.1. Please see that Section of the Act for additional detail on processing commercial requests for records.


Sincerely,

Cara Smith
Public Access Counselor

By: 

Heather V. Kimmons
Deputy Public Access Counselor

cc:


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