



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 27, 2011

Mr. L. Patrick Power
Assistant City Attorney
City of Kankakee
Administration Building
304 S. Indiana Ave.
Kankakee, IL 60901-3904

RE: FOIA Pre-Authorization Request - 2010 PAC 8661

Dear Mr. Power:

On August 19, 2010, we received written notice from the City of Kankakee (City) of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). On August 26, 2010, we stayed our review of this matter pending resolution of a complaint for declaratory and injunctive relief filed by Inspired Development and Minority Development in Will County Circuit Court. *See Inspired Development, LLC v. City of Kankakee*, Docket No. 10 CH 5123 (Circuit Court, Will County). As you know, that complaint has now been dismissed. Moreover, post-dismissal motions to reconsider and for clarification have been denied. On this basis, we now proceed to determine whether the City has complied with the requirements of FOIA in responding to the request for records submitted by [REDACTED] on June 22, 2010.

[REDACTED] FOIA request sought all findings or studies by the City or a third party related to any Economic Incentive Agreement or tax rebate agreement entered into by the City, copies of all previous FOIA requests and any subpoenas pertaining to such agreement(s), copies of all reports provided by Inspired Development LLC, and related communications, generated pursuant to Section 2D of the Economic Development Agreement between the City and MTS Consulting LLC, as well as copies of all reports provided by Inspired Development LLC, and related communications, generated pursuant to Section 2D of the Economic Development Agreement between the City and MTS Consulting LLC. The City seeks to withhold certain information contained in the requested records citing section 7(1)(c) of FOIA (5 ILCS 140.7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29,

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2010). The City asserts that the disclosure of the information in question would constitute a clearly unwarranted invasion of privacy.

DETERMINATION

The City's use of the exemption in section 7(1)(c) to withhold information responsive to [REDACTED] request is **denied**. This information relates to business entities, not to individuals. Corporations and other business entities do not have a right to personal privacy for the purpose of section 7(1)(c) of FOIA. *See FCC v. AT&T, Inc.*, 562 U.S. ___, 131 S. Ct. 1177, 1185 (2011) (holding that corporations do not have a privacy interest for purposes of Exemption 7(C) of the Federal FOIA (5 U.S.C. §552(b)(7)(C)) which exempts law enforcement records, the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.). This conclusion is equally applicable to section 7(1)(c) of FOIA. Therefore, there is no personal privacy interest in this information that could outweigh the public interest in obtaining it.

This letter does not constitute a binding opinion under section 9.5 of FOIA. If you have any questions or would like to discuss this matter, please contact me at (217) 782-9078. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]
MATTHEW M. SEBEK
Assistant Attorney General
Public Access Bureau

cc:

[REDACTED]
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