



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 8, 2011

Ms. Pamela Cotten, Assistant General Counsel
Office of the General Counsel
Chicago Housing Authority
60 E. Van Buren St.
12th Floor
Chicago, IL 60605-1207

Re: FOIA Pre-Authorization Request – 2011 PAC 14042

Dear Ms. Cotten:

We have received and reviewed the written notice from the Chicago Housing Authority (CHA) of its intention to deny disclosure of certain information pursuant to section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)). Specifically, on April 18, 2011, [REDACTED] requested a copy of the certified payroll for the LeClaire demolition project and a list of "Section 3 hires" on that job site. CHA is seeking to redact the names of five CHA residents from the payroll records.

We determined that further inquiry was warranted and requested copies of the certified payroll records for our review. CHA provided copies and clarified in a telephone conversation with this office that the contractor for the project submitted those records pursuant to the federal Davis-Bacon Act (40 U.S.C. § 3141, *et seq.* (2006)). Section 3145 of the Davis-Bacon Act (40 U.S.C. § 3145 (2006)) requires contractors to furnish weekly statements of wages paid to employees for public works projects that receive federal funding. As the records in question are not monthly certified payroll records submitted to CHA pursuant to section 5(a)(2) of the Illinois Prevailing Wage Act (820 ILCS 130/5(a)(2) (West 2010)), the FOIA provision that requires disclosure of such records does not apply: "Certified payroll records submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act are public records subject to inspection and copying in accordance with the provisions of this Act[.]" 5 ILCS 140/2.10 (West 2010).

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Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal 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." The section 7(1)(c) exemption defines "unwarranted invasion of personal privacy" as "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."

DETERMINATION

The Department's use of the exemption in section 7(1)(c) to redact the names of CHA residents from the certified payroll for the project is **denied**. Section 3 of the federal Housing and Urban Development Act of 1968 declares that "employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing[.]" 12 U.S.C. § 1701u(3) (2006). In accordance with that section, CHA residents were among the employees hired for the demolition project. However, the certified payroll records do not distinguish between CHA residents and non-CHA residents or identify any of the workers as recipients of public housing assistance. We also note that the addresses of employees, which could be used to identify employees as recipients of public housing assistance, are subject to redaction under section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2010)). Accordingly, we conclude that CHA has not sustained its burden of demonstrating that the names of CHA residents are exempt from disclosure under section 7(1)(c).

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,


STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

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cc: *Via Electronic Mail*

