



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 18, 2011

Mr. Mark Schuster  
FOIA Officer  
Village of Hampshire  
Bazos, Freeman, Kramer Schuster, Vanek & Kolb, LLC  
1250 Larkin Avenue, # 100  
Elgin, Illinois 60123

RE: FOIA Pre-Authorization Request - 2011 PAC 15294

Dear Mr. Schuster:

We have received the written notice from the Village of Hampshire 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)).

On May 19, 2011, [REDACTED] submitted a FOIA request for Hampshire Police Department report # 11-02701. In its written notice, the Village asserts that [REDACTED] medical information and the dates of birth of [REDACTED] and other individuals are exempt from disclosure under section 7(1)(c) of FOIA.

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 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 Village's assertion of section 7(1)(c) to withhold Ms. DeLeo's medical information is **denied**. The Village has failed to meet its initial burden of demonstrating that the disclosure to [REDACTED] of medical information pertaining to her would constitute a clearly unwarranted invasion of her personal privacy.

Mr. Mark Schuster  
August 18, 2011  
Page 2

Further, the Village's assertion of section 7(1)(c) to redact the dates of birth contained in the report is **approved** only with respect to persons other than [REDACTED]. We have determined that the Village has met its initial burden of demonstrating that the disclosure of dates of birth of subjects other than the requester would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[] are a private matter, particularly when coupled with \* \* \* other information" and "would constitute a clearly unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Attorney General of Texas*, \_\_\_ S.W.3d \_\_\_, 54 Tex. Sup. Ct. J. 245 (2010) (state employees have a "nontrivial privacy interest" in their dates of birth under the Texas Public Information Act (*see* Tex. Gov't Code §§552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

However, with respect to the disclosure of the requester's date of birth, these concerns do not come into play, and there is no compelling reason to withhold that information from the subject to whom it pertains. Accordingly, the Village may issue a partial denial letter and release the report with the dates of birth of subjects other than the FOIA requester redacted, if it has not already done so.

The Village also indicates that it intends to redact additional information from the report pursuant to section 7(1)(b) (5 ILCS 140/7(1)(b) (West 2010)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(f) (West 2010)), we make no determination at this time regarding the applicability of any other exemptions.

If you have any questions, please contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]  
DUSHYANTH REDDIVARI  
Assistant Attorney General  
Public Access Bureau

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cc: [REDACTED]