



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 29, 2011

Mr. Matthew H. Asselmeier
Associate Director of Public Relations/City Council Liaison
City of Alton
101 E. Third Street
Alton, IL 62002

RE: FOIA Pre-Authorization Request – 2011 PAC 12019

Dear Mr. Asselmeier:

We have received and reviewed the written notice from the City of Alton of its intention to withhold information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)).

On January 18, 2011, [REDACTED] submitted a FOIA request to the City for the "[n]ame of the resident at [REDACTED], Alton, IL, in Aug. 2010."

In its written notice, the City asserted that "releasing a person's name, just because that person lives at a given address, is an invasion of personal privacy," and, therefore, sought to withhold any responsive documents under 7(1)(c). 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." 5 ILCS 140/7(1)(c) (West 2010).

Because it was not clear from the City's pre-authorization request precisely what documents the City sought to withhold, on January 31, 2011, we asked the City to provide us

with any documents in its possession that were responsive to [REDACTED] FOIA request. The City cited to and provided for our review two documents:

1. The City of Alton, Department of Building & Zoning Application for Residential Occupancy Permit; and
2. The Illinois American Wastewater bill for the address in question.

DETERMINATION

Based on our careful review of both of the documents that the City provided to us in this matter, the City's request to use section 7(1)(c) to withhold the two records is **denied**. With respect to the water bill, this office has previously concluded that disclosure of records relating to public utility bills cannot be characterized as highly personal or objectionable to the reasonable person. *See* Ill. Att'y Gen. PAC Pre-Auth dl14080, issued May 18, 2011 and Ill. Att'y Gen PAC Pre-Auth dl9448, issued October 28, 2010. In those matters, this office determined that water bills relate to the obligation, receipt, and use of public funds within the definition of section 2.5 of FOIA (5 ILCS 140/2.5 (West 2010)), which states "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public." We concluded that the amount of money remitted to a public body and the billing practices of that public body fit within this provision.

Further, with respect to the occupancy permit, there is a legitimate public interest in determining how the City's permitting and inspection process functions. This legitimate public interest outweighs any personal privacy the occupant has in the permit. Therefore, the City may not withhold this document under section 7(1)(c).

The City may use section 7(1)(c) to redact dates of birth contained in the documents. We have consistently concluded that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy under section 7(1)(c). 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.

Further, to the extent that the records contain home addresses and/or personal telephone numbers of persons who are not occupants of the property, that information may constitute "private information," for purposes of FOIA. Section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2010)) permits public bodies to withhold "private information" as defined in section 2(c-5). 5 ILCS 140/2(c-5) (West 2010). Because advance approval by the Public Access Counselor is not required for use of section 7(1)(b), we make no determination at this time regarding the applicability of this exemption.

Mr. Matthew Asselmeier
July 29, 2011
Page 3

The City is therefore directed to release the responsive documents to Mr. Barylske in accordance with this letter, if it has not already done so.

If you have any questions, please contact our office at (877) 299-3642. This correspondence shall serve to close this matter.

Very truly yours,



REBECCA RIDDICK
Assistant Attorney General
Public Access Bureau

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