



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 29, 2011

Ms. Pamela Christell
FOIA Officer
DuPage County Health Department
111 North County Farm Road
Wheaton, Illinois 60187

RE: Pre-Authorization Request – 2011 PAC 15562

Dear Ms. Christell:

We have reviewed the written notice from the DuPage County Health Department 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 2010)). On July 11, 2011, [REDACTED] requested a copy of the "[a]pplication, resume, and interview evaluation summary of every candidate for the Assistant Director of Residential Services." The Department seeks to withhold all of the applications under section 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." The exemption further provides that the "disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

DETERMINATION

The Department's assertion of the exemption in section 7(1)(c) to withhold the applications of candidates who were not selected is **approved**. Because these candidates were not hired as public employees or officials, the information contained in their applications does not constitute "information that bears on the public duties of public employees and officials." The fact that an individual is seeking new employment is highly personal, and a reasonable person would find the release of this information objectionable. We have determined that the

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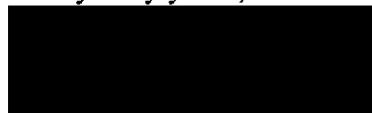
applicants' right to privacy outweighs the legitimate public interest in obtaining this information. Therefore, the Department has sustained its initial burden of demonstrating that the applications of candidates who were not selected are exempt from disclosure under section 7(1)(c).

The Department's assertion of section 7(1)(c) to withhold the entire application of the candidate who was chosen for the position is **denied**. In a telephone conversation on July 26, 2011, the Department informed us that a candidate has been selected for the position. Because this individual is currently a public employee, his or her application includes "information that bears on the public duties of [a] public employee[.]" Accordingly, the Department may not withhold the entire application under section 7(1)(c). If the Department identifies specific information in the application the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and that does not bear on the public duties of the new Assistant Director of Residential Services, the Department may submit a new request for pre-authorization to withhold that specific information.

The Department also asserts that the interview evaluation summaries are exempt under section 7.5(q) (5 ILCS 140/7.5(q) (West 2010)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than those in sections 7(1)(c) and 7(1)(f) (5 ILCS 140/7(1)(c) (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) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,



SARAH KAPLAN
Assistant Attorney General
Public Access Bureau

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cc:

