



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

August 17, 2010

Mr. Angelo Ciabrone  
Wilczynski, Wilczynski, & Ciabrone, Ltd.  
1515 Halsted St.  
Chicago Heights, IL 60411

RE: FOIA Pre-approval Request – No. 7162

Dear Mr. Ciabrone:

We have received and reviewed the written notice from the Richton Park Public Library District (District) of its intention to deny [REDACTED]'s Freedom of Information Act (FOIA) request for four District employees' personnel files, pursuant to Section 7(1)(c) of FOIA. 5 ILCS 140/7(1)(c). In its written notice to our office, the District also referenced its contention that the requested personnel files are exempt from disclosure under section 7 of the Personnel Record Review Act. 820 ILCS 40/7 (West 2008). Subsequently, the District submitted 22 pages of documents, the universe of documents it intends to withhold pursuant to Section 7(1)(c), consisting primarily of performance evaluations for the individual employees whose personnel files Requester sought, but also including two one-page Certificates of Appreciation for one of these employees, and a one-page letter of resignation from another of these employees.

**Determinations**

Section 7(1)(c) of FOIA permits a public body to withhold "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." That provision further defines an "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." It also provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

We have determined that the District has not met its burden of demonstrating that Section 7(1)(c) exempts any of the responsive records it has submitted from disclosure. With respect to the evaluations it has submitted, evaluations of public employees directly address the manner in which public employees perform their public duties. Public bodies use these evaluations to determine if employees should be retained, promoted, or terminated. As such, they clearly bear on the public duties of public employees, for purposes of Section 7(1)(c) of FOIA. With respect to the remaining public employee personnel records, they too clearly relate to the public duties of public employees and, therefore, disclosure of these documents likewise would not represent an "unwarranted invasion of personal property", as that phrase is used in Section 7(1)(c).


We further note that this determination addresses only the applicability of Section 7(1)(c) to the subject records. Public bodies must seek pre-approval from our office for the use of Section 7(1)(c) and Section 7(1)(f) only. However, as noted above, the District has specifically cited to section 7 of the Personnel Record Review Act as an additional basis for withholding records responsive to Requester's FOIA request. 820 ILCS 40/7 (West 2008). Section 7 does not, however, prohibit the release of personnel files. Rather, it only requires written notice to be given to an employee, prior to the release of disciplinary reports, letter of reprimand, or other records concerning disciplinary actions about such employee to a third party, subject to certain restrictions. Furthermore, even to the extent that these documents could be construed to contain disciplinary reports, letters of reprimand, or records concerning other disciplinary actions about these employees, the District has submitted correspondence from each of the four employees whose personnel files Requester seeks contesting the disclosure of these records, establishing that the District has provided notice to these employees in this instance.

In accordance with this letter, the District may release the requested records to the requester. If you have any questions, please feel free to contact me at (217) 782-9078. This letter shall serve to close this file.

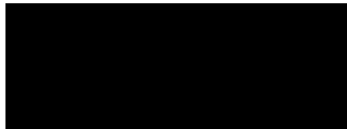
Sincerely,

Cara Smith  
Public Access Counselor

By:

  
Matthew M. Sebek  
Assistant Attorney General, Public Access Division

cc:



Ms. Kelly D. Nichols

FOIA Officer  
Richton Park Public Library District  
4045 Sauk Trail  
Richton Park, Illinois 60471