



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

June 24, 2010

Nancy J. Wolfe
First Assistant State's Attorney
Freedom of Information Officer
Office of the State's Attorney
503 N. County Farm Road
Wheaton, Illinois 60187

RE: Pre-Authorization Request – 2010 PAC 7254

Dear Ms. Wolfe:

We have received and reviewed the written notice from the DuPage County State's Attorney's Office (State's Attorney's Office) of its intention to deny certain records as exempt from disclosure under sections 7(1)(c) and 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

██████████ submitted a FOIA request for "[t]he file of the investigation of DuPage County Election Commission Executive Director Robert T. Saar in 2009, including but not limited to: Saar's relationship with Robis, Inc., Saar's secret royalties from Robis, Inc., etc."

In response, the State's Attorney's Office granted the request in part and denied in part. In its written notice, the State's Attorney's Office is seeking to withhold records in Mr. Saar's investigation file regarding Mr. Saar's religious affiliation and several tax documents pursuant to Section 7(1)(c). The State's Attorney's Office is also seeking to withhold preliminary notes taken by investigators and assistant state's attorney's regarding the investigation of Mr. Saar and his relationship to Robis, Inc., pursuant to Section 7(1)(f).

Section 7(1)(c) Exemption

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 disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). The exemption defines "[u]nwarranted 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.” *Id.* Section 7(1)(c) also states 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.” *Id.*

The State’s Attorney’s Office’s use of the Section 7(1)(c) exemption with regard to information regarding Mr. Saar’s religious affiliation is approved. We have determined that the disclosure of this type of personal information that does not relate to the transaction of public business and does not bear on the public duties of public employees would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal and the subject’s right to privacy outweighs any legitimate public interest in disclosing this information.

The State’s Attorney’s Office’s use of the Section 7(1)(c) exemption with regard to Mr. Saar’s tax documents is approved. We have determined that the disclosure of this type of personal information that does not relate to the transaction of public business and does not bear on the public duties of public employees would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal and the subject’s right to privacy outweighs any legitimate public interest in disclosing this information.

Section 7(1)(d) Exemption

Section 7(1)(f) allows withholding of:

[p]reliminary drafts, notes, recommendations, memoranda or other documents in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.

5 ILCS 140/7(1)(f). The State’s Attorney’s Office’s use of the Section 7(1)(f) exemption with regard to preliminary notes created by investigators and assistant state’s attorneys in the course of their investigation of Mr. Saar and his involvement with Robis, Inc., is approved. We have determined that based on State’s Attorney’s Office’s detailed description and explanation of the basis for its assertion of exemption 7(1)(f), its use herein is appropriate. The notes pertain to an investigation where actions were formulated and considered, and therefore clearly falls within the deliberative process covered by the definition of 7(1)(f).

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If you have any questions, please call me at 312-814-5206. This letter shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Amalia Rioja
Chief Deputy Public Access Counselor

cc:

