



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 21, 2010

Mr. Thomas Hardy
Freedom of Information Officer
The University of Illinois
506 South Wright Street
108 HAB, MC 370
Urbana, Illinois 61801

RE: Pre-Authorization Request – 2010 PAC 7639
Requestor: Christine des Garennes of *The News-Gazette*

Dear Mr. Hardy:

We have received written notice from the University of Illinois (University) of its intent to deny disclosure of certain information as exempt from disclosure under Sections 7(1)(c) and 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(c), (f). This letter is to inform you that your request is approved in part and denied in part.

Christine des Garennes of *The News-Gazette* submitted a FOIA request dated May 12, 2010, seeking documents "regarding the Pell Farm, or pomology research center, from January 2010 to today's date of May 12, 2010." In its written notice, the University asserted that the names of the buyers and former tenant of the property and descriptions of and comments regarding a medical procedure are exempt from disclosure under Section 7(1)(c) of FOIA. The University further asserts that draft letters, documents in which opinions are expressed regarding pending real estate purchases, documents that discuss strategies, documents discussing plans for negotiations, documents that contain opinions of and frank discussion between administrators, pre-decisional deliberations in which policies or actions are formulated, and information regarding University procedures for property security are exempt under Section 7(1)(f) of FOIA.

We issued a letter of further inquiry on June 4, 2010, requesting a detailed explanation of the instances where the University believes parts of documents are exempt from disclosure under Section 7(1)(c) of FOIA, as well as samples of the categories of documents the University believes are exempt under Section 7(1)(f) of FOIA. The University responded on June 18, 2010, explaining that the buyer, seller (the University of Illinois Foundation), and former tenant all were private parties. The University further explained that some documents contained passing comments from a correspondent noting his medical procedure and his recovery. The University also provided the requested sample documents as it asserts are exempt under Section 7(1)(f) 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 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.* Furthermore, “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.*

Section 7(1)(f) of FOIA exempts from inspection and copying “[p]reliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated”, as long as the document is not cited or publicly identified by the head of the public body. 5 ILCS 140/7(1)(f).

Determinations

The University’s use of the exemption in Section 7(1)(c) with regard to the identity of the buyer and the former tenant of the Pell Farm is denied. We have determined that disclosure of this information in this instance would not be highly objectionable to a reasonable person. Although the former tenant and buyer were engaged in transactions with a private corporation, the University of Illinois Foundation, the University was heavily involved in the structuring and execution of those transactions. The subjects’ right to privacy with respect to this information in this instance does not outweigh any legitimate public interest in obtaining this information. Therefore, the disclosure of this information would not constitute a clearly unwarranted invasion of personal privacy to the subjects of the information. 5 ILCS 140/7(1)(c).

The University’s use of the exemption in Section 7(1)(c) with regard to comments regarding a personal medical procedure is approved. We have determined that disclosure of this information in this instance would be highly objectionable to a reasonable person. Moreover, the subjects’ right to privacy with respect to this information outweighs any legitimate public interest in obtaining this information. Therefore, the disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. 5 ILCS 140/7(1)(c).

The University’s use of the exemption in Section 7(1)(f) is approved. The documents in question reflect internal notes, deliberations, discussions, drafts, and recommendations that were intended to aid University decision-makers in formulating final actions. Additionally, none of the documents has been publicly cited or identified by the head of the University. Therefore, the University may properly withhold the documents as exempt from disclosure under Section 7(1)(f) of FOIA.

Should you have questions or concerns, please call our office at 1-877-299-FOIA (3642). This letter shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Sara Gadola Gallagher
Deputy Public Access Counselor

cc: Christine des Garennes
Staff Writer - *The News-Gazette*
15 Main Street
Champaign, Illinois 61820