



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 16, 2010

Bev West
Freedom of Information Officer
City of Salem
101 S. Broadway
Salem, IL 62881

RE: Pre-Authorization Request – 2010 PAC 8796

Dear Ms. West:

We have received and reviewed the written notice from the City of Salem (City) of its intention to deny disclosure of certain information as exempt under Section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

On July 29, 2010, [REDACTED] submitted a FOIA request for the amounts paid to any previous or current health insurance provider for five specified city officials and the amounts in claims paid by any health insurance provider for the same individuals.

In its written notice, the City asserts the exemption in Section 7(1)(c) to withhold the requested information. The City states that the release of the requested information would constitute a clearly unwarranted invasion of personal privacy 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 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.* 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 City’s use of the exemption in Section 7(1)(c) to withhold information regarding premiums paid or claims paid on behalf of certain public employees to a health insurance provider is

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denied. We have determined that the disclosure of the requested information would not constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). First, the City has not met its burden establishing a basis for withholding this information. The City has not established that the release of the amounts paid by a municipality in premiums and claims for its public employees constitute an unwarranted invasion of personal privacy. Second, Section 2.5 of FOIA provides that “[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.” 5 ILCS 140/2.5 (emphasis added). The amounts paid by a municipality in premiums or claims to a health insurance provider are records of the use of public funds and therefore fall squarely within the definition of “records of fund” as set forth in Section 2.5. The City may not rely on Section 7(1)(c) to withhold the requested information.

Please note that this letter expresses no opinion as to the applicability of the exemption in Section 7(1)(s) to the requested information. The use of the exemption in Section 7(1)(s) does not require pre-authorization from our office.

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

Sincerely,

Cara Smith
Public Access Counselor

By:


Amalia Kioja
Chief Deputy Public Access Counselor

cc:

