



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 25, 2010

Kimberly A. King
Senior Staff Attorney
Office of Corporation Counsel
City of Peoria
419 Fulton Street, Suite 200
Peoria, Illinois 61602-1217

RE: Pre-Authorization Request – 2010 PAC 9137

Dear Ms. King:

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

██████████ submitted a FOIA request to the City on August 13, 2010 for the following information, in part:

1. Annual formal performance reviews of Urban Planners and Senior Urban Planners from 2003 to 2008.
2. Bi-annual Self-Assessment submitted by Urban Planners and Senior Urban Planners from 2003 to 2008.
3. Annual informal reviews of the Urban Planners and Senior Urban Planners from 2003 to 2008.

In its written notice, the City asserts that these evaluations are exempt from disclosure under Section 7(1)(c) of FOIA stating that “[t]he evaluations are done for that employee to assist in identifying positive or poor performance and is available only to the employee. Provision of the evaluation to others is clearly invasive to the subject employee.”

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.* In addition, the exemption 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.” *Id.*

Determination



The City’s proposed use of the exemption in Section 7(1)(c) with to deny disclosure of the requested documents is denied. We have determined that state and municipal employee evaluations relate to the public duties of public employees and officials, therefore, disclosure of these evaluations is not an invasion of personal privacy. Performance evaluations of public employees impact what public duties that employee will have in the future. While other provisions of FOIA may exempt from disclosure discreet information contained in personnel evaluations, it is not a basis for withholding these documents *in toto*.

Accordingly, unless the City properly asserts an exemption other than Section 7(1)(c) to deny disclosure, it should release the requested documents.

If you have any questions, please feel free to contact me at (312) 814-1003. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By 

Jessica O’Leary
Assistant Attorney General

cc: 