



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 22, 2011

Mr. William B. Bates, Jr.
Attorney for the City of Lincoln, Illinois
306 Clinton Street
Lincoln, IL 62656

RE: Pre-Authorization Request – 2010 PAC 12961

Dear Mr. Bates:

We have received and reviewed the written notice from the City of Lincoln of its intention to deny disclosure of certain information contained in traffic accident reports for the period from February 1, 2011, through March 1, 2011, pursuant to Section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7), which 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”.

On March 2, 2011, Mr. Jason W. Pohren submitted a FOIA request seeking “any and all accident reports generated by [the Lincoln Police Department] from February 1, 2011, through March 1, 2011.”

On March 14, 2011, the City sought our office’s approval to withhold the sex of any individual, VIN numbers, insurance company names, and insurance policy numbers contained in the responsive documents pursuant to Section 7(1)(c). Additionally, the City sought pre-authorization to withhold EMS Agency information, the hospital any injured person was taken to, information concerning any injury that occurred, and any medical records contained within responsive documents under Section 7(1)(c). The City also asserted that this information is exempt under Section 7(1)(a), of FOIA (5 ILCS 140/7(1)(a)), which exempts from disclosure information that is “specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” However, as discussed below, we will not address the applicability of Section 7(1)(a) at this juncture.

12961 pre-auth al dl 71c dob med inf priv mun

Further, in its pre-authorization request, the City also asserted the 7(1)(c) exemption for “Street Addresses, City, State, Zip, Phone Numbers, Driver’s License Numbers, Dates of Birth, Personal License Plates, Vehicle Owner’s Address, and Vehicle Owner’s telephone number.” The City simultaneously claimed the 7(1)(b) “private information” exemption for this information.

Determination

Section 7(1)(c) 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”. The exemption defines “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.”

The City’s use of the Section 7(1)(c) exemption with regard to dates of birth, insurance policy numbers, and information concerning any injuries contained within the responsive documents is **approved**. The information is highly personal by its very nature, and the subjects’ right to privacy with respect to this information outweighs any legitimate public interest in obtaining it. Thus, the information is exempt from disclosure under Section 7(1)(c) of FOIA, as disclosure would constitute a clearly unwarranted invasion of personal privacy to the subjects of the information.

However, the City’s use of the exemption in Section 7(1)(c) is **denied** with respect to the sex of individuals named in the reports, VIN numbers, any insurance company name, any EMS agency name, and hospital name contained in the reports. A person’s gender is not personal information the release of which would constitute an unwarranted invasion of personal privacy. This information is not “highly personal,” nor would its release be “objectionable to a reasonable person.” Likewise, VIN numbers, names of insurance companies, names EMS agencies, and hospital names are not personal information. It does not appear that releasing this information would be an “unwarranted invasion of *personal* privacy.” 5 ILCS 140/7(1)(c) (emphasis added). Therefore, the City has not met its burden to withhold this information under Section 7(1)(c).

Lastly, Section 2(c-5) defines the privacy exemption contained in Section 7(1)(b).

“Private information” means unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home addresses and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

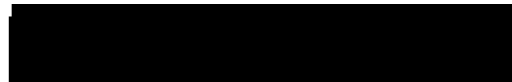
5 ILCS 140/2(c-5).

As home addresses, personal and home phone numbers, driver's license numbers, and medical records are defined as "private" by the Act and, therefore, exempt under Section 7(1)(b), we will not address whether this information might also be exempted under Section 7(1)(c).

This letter does not provide an opinion or advice regarding other exemptions contained in FOIA, including Section 7(1)(a). The City may release the remainder of the reports in accordance with this letter.

Should you have questions or concerns, please feel free to contact our office at (877) 299-3642. This correspondence shall serve to close this matter.

Sincerely,

A solid black rectangular redaction box covering the signature of Rebecca Riddick.

Rebecca Riddick
Assistant Public Access Counselor

cc: Mr. Jason W. Pohren
Attorney at Law
555 North Court Street
Suite 200
Rockford, IL 61103