



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 16, 2010

Mr. Andrew Boron
FOIA Officer
Illinois Tollway
2700 Ogden Avenue
Downers Grove, Illinois 60515

RE: FOIA Pre-Authorization Request – 2010 PAC 8998

Dear Mr. Boron:

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

Specifically, Dana Kurtz, on behalf of the Kurtz Law Offices, submitted a FOIA request to the Tollway on July 21, 2010 seeking copies of the following information:

1. Any and all IPass transponder history records for [REDACTED] License Plate # [REDACTED], and License Plate # [REDACTED] between July 19, 2010 through July 22, 2010;
2. Any and all documents listing location and direction of travel for [REDACTED], License Plate # [REDACTED], and License Plate # [REDACTED] between July 19, 2010 through July 22, 2010;
3. Any and all digital photographs for [REDACTED], License Plate [REDACTED] and License Plate # [REDACTED] between July 19, 2010 through July 22, 2010; and
4. Any and all documents listing plaza location for [REDACTED] License Plate [REDACTED] and License Plate # [REDACTED] between July 19, 2010 through July 22, 2010.

On August 9, 2010 the Tollway submitted a pre-authorization request to this Office, asserting that the information is exempt from disclosure under Section 7(1)(c) of FOIA 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, 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.*

Determinations

The Tollway's request for approval of its decision to withhold the transponder history reports, the location and direction of travel, and the plaza locations of [REDACTED] pursuant to Section 7(1)(c) is hereby denied.

Our denial of the Tollway's request to withhold is supported by 2010 PAC 7942, a previously-issued pre-authorization letter in which this Office denied the Tollway's request to withhold still images and traffic conditions taken from the York Road Toll Plaza. In 2010 PAC 7942, this Office concluded that those who drive through Toll Plazas must assume some level of public exposure. Further, this Office noted that the public has a substantial interest in such things as the disclosure of a Tollway image and possible violations occurring at a particular Tollway. Moreover, 2010 PAC 7942 explained that images evidencing whether motorists have paid (or not paid) their tolls relates to the receipt of public funds by a public body and, thus, is presumptively a public record.

In keeping with our analysis of 2010 PAC 7942, the information requested in this particular instance does not constitute a highly unwarranted invasion of personal privacy under Section 7(1)(c). The legitimate public interest as to the transponder history reports, the location and direction of travel, and the plaza locations of [REDACTED] outweigh his right to privacy under Section 7(1)(c). Therefore, it is the conclusion of this Office that the Tollway has not met its burden under Section 7(1)(c) and should disclose the information.

If you have any questions concerns, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: [REDACTED]

Matthew C. Rogina
Assistant Public Access Counselor

cc: Dana L. Kurtz
Kurtz Law Offices, Ltd.
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Lockport, Illinois 60441