



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

August 31, 2010

Mr. Brian Bursiek
Assistant to the Village Manager
Village of Schiller Park
9526 W. Irving Park Rd.
Schiller Park, IL 60176

RE: Pre-Authorization Request – 2010 PAC 9067
FOIA Requester: Robert Patterson

Dear Mr. Bursiek:

We have received and reviewed the written notice from the Village of Schiller Park (Village) of its intention to deny disclosure of 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.

On August 3, 2010, Robert Patterson, attorney for [REDACTED], requested a police report regarding an accident that resulted in [REDACTED]'s death. In its written response, the Village asserts that release of the photographs, photo log, police report narrative, names of individuals, addresses, phone numbers and dates of birth would constitute an unwarranted invasion of personal privacy under Section 7(1)(c).

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.”

Determinations

The Village’s use of the Section 7(1)(c) exemption with regard to dates of birth is **approved**. This 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.

The Village's use of the Section 7(1)(c) to exempt the victim's name, photographs, photo log, and narrative of the accident scene is **denied**. The Village argues that the photographs are of a graphic nature and show the victim's blood and personal belongings of the victim shortly after the accident. It maintains that the release of this information is highly personal and would be objectionable to a reasonable person. However, these records are being requested by the victim's estate. Any privacy concerns that arise are outweighed by the requester's legitimate interest in the information provided by these records. The narrative and other information in the requested records detail the circumstances and possible causes of the workplace accident that caused the victim's death. Therefore, Section 7(1)(c) exemption may not be used to withhold the photographs, photo log or narrative from the victim's estate.

Please note that home addresses and home phone numbers fall within the Section 7(1)(b) exemption for private information. "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 address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/7(1)(b). Use of this exemption to partially deny disclosure of public records does not require preapproval from our Office.

Additionally, the Village may use Section 7(1)(d)(iv) to determine whether the witness names should be withheld. This section exempts from inspection and copying "records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would unavoidably disclose the identity of ... persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request." 5 ILCS 140/7(d)(iv). Use of this exemption does not need prior approval from our Office.

As such, the Village should issue a partial denial letter directly to the FOIA requester in accordance with this letter. Should you have questions or concerns, please feel free to contact me at (312) 814-5206. This correspondence shall serve to close this matter.

Sincerely,

cc: Mr. Robert Patterson
205 W. Wacker Drive , Suite 900
Chicago, IL 60606

Cara Smith
Public Access Counselor

By: 
Amalia Rioja
Chief Deputy Public Access Counselor