



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

March 30, 2011

Ms. Sarah L. Pratt
Freedom of Information Act Officer
Office of the Illinois Attorney General
spratt@atg.state.il.us

RE: Pre-Authorization Request 2011-PAC-13066

Dear Ms. Pratt:

We have received and reviewed the written notice from the Office of the Illinois Attorney General (OAG) 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.

On March 14, 2011, Tim Novak and Chris Fusco, staff reporters for the *Chicago Sun-Times* submitted a FOIA request to the OAG seeking all records that the OAG has in its possession of Ronald Yawger, an investigator with the OAG.

On March 22, 2011, the OAG submitted a Pre-Authorization Request with the Office of the Public Access Counselor and asserted that certain information is exempt from disclosure under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)), 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." 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.* Specifically, the OAG seeks to withhold the month and date of Mr. Yawger's birth, the identities of beneficiaries of Mr. Yawger's deferred compensation plan and the percentages that they receive.¹

¹ The OAG has supplied Mr. Novak and Mr. Fusco with the year of Mr. Yawger's birth.

Determination

The OAG's request for approval of its decision to withhold certain information pursuant to Section 7(1)(c) is approved.

With regard to the month and date of Mr. Yawger's birth, we conclude that disclosure of this information, in conjunction with the year of birth which has previously been released, could be highly personal or objectionable to the reasonable person and that no legitimate public interest exists in such disclosure.

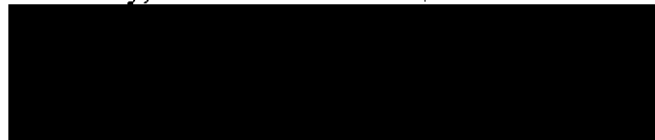
With regard to the identities of beneficiaries of Mr. Yawger's deferred compensation plan, this Office concluded the following in 2010 PAC No. 8589:

Unlike a public pension fund participant, beneficiaries of a participant have a reasonable expectation of privacy that their names will not be disclosed to the public. In many instances, these individuals are not public employees and are often designated as beneficiaries based on their personal relationship to the pension fund participant. This information has no relation to the employee's public duties and there is nothing that suggests a legitimate interest in the public obtaining the names of the beneficiaries.

Finally, the percentage that a designated beneficiary receives from a deferred compensation program cannot be said to relate to the receipt and use of public funds because the money at issue is being spent exclusively by the participant, in this case, Mr. Yawger. As such, disclosure of the percentage designated for a beneficiary can be said to be highly personal or objectionable to the reasonable person.

Accordingly, the OAG has met its initial burden pursuant to Section 7(1)(c) with regard to the month and date of Mr. Yawger's birth, the identities of the beneficiaries of his deferred compensation plan and the respective percentages that those beneficiaries receive. Should you have any questions or concerns, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

A large black rectangular redaction box covering the signature of Matthew C. Rogina.

Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Tim Novak
Chicago Sun-Times
tnovak@suntimes.com

Mr. Chris Fusco
Chicago Sun-Times
cfusco@suntimes.com

13066 pre-auth al dl 7(1)(c) priv sa