



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 24, 2010

Laura Godette
Deputy Clerk
Village of Tinley Park
16250 S. Oak Park Avenue
Tinley Park, IL 60477

RE: Pre-Authorization Request — 2010 PAC 9678

Dear Ms. Godette:

We have received and reviewed the written notice from the Village of Tinley 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.

██████████ submitted a FOIA request on September 8, 2010, seeking in part, “[a]pplication/resume or personal file for the hearing officer” relating to a September 1, 2010 hearing. In its written notice, the Village asserted that it “...intends to deny the application for employment, criminal history and commission card for ██████████” under Sections 7(1)(c) and 7(1)(b) of FOIA as “...the material is private and personal information contained within the public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.”

Determination

First, we have determined that the Village’s proposed use of the exemption found in Section 7(1)(c) to deny disclosure of ██████████ Application for Employment is denied.

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.* (Emphasis added.)

People who accept public employment have a reasonable expectation that their qualifications will be subject to public scrutiny as these qualification specifically bear on their public duties. In addition, the disclosure of an employment application of a successful candidate allows private citizens insight into the employment decisions of public bodies.

In addition, while Section 7(1)(b) of FOIA allows for the redaction of discreet information (i.e. home addresses, social security numbers, personal telephone numbers, etc.) it does not provide a basis for withholding these documents *in toto*.

Accordingly, the Village has failed to meet its burden of demonstrating that this record is exempt in whole under Section 7(1)(c) of FOIA. Unless the Village properly asserts an exemption other than Section 7(1)(c), it shall release the Application of Employment to [REDACTED].

Second, the Village's proposed use the Section 7(1)(c) exemption to deny disclosure of the report of [REDACTED] law enforcement background check is approved.

We have reviewed the record and have a found that the information contained within does not bear of the public duties of [REDACTED]. In addition, the information is highly personal in nature and as such, disclosure would be an unwarranted invasion of personal privacy.

Accordingly, the Village has met its burden of demonstrating that this record is exempt under Section 7(1)(c) of FOIA and it may issue a partial denial letter to [REDACTED] withholding the record from disclosure.

Third, we have determined that the Village's proposed use of the exemption found in Section 7(1)(c) to deny disclosure of [REDACTED] Attorney Registration and Disciplinary Commission card in whole is denied as this information bears on the qualifications of a public employee.

We have reviewed the card and have determined that the only information which may be redacted under Section 7(1)(c) is [REDACTED] signature.

We have determined that an individual's signature is highly personal in nature and as such, disclosure would be an unwarranted invasion of personal privacy. Absent specific facts demonstrating a need for disclosure, such as needing to compare one signature to another, signatures may be withheld from disclosure under Section 7(1)(c) of FOIA.

Accordingly, the Village has failed to meet its burden of demonstrating that this record is exempt in whole under Section 7(1)(c) of FOIA. Unless the Village properly asserts an exemption other than Section 7(1)(c) of FOIA, it shall release the Attorney Registration and Disciplinary Commission card to Ms. Ryan with the signature redacted.

Finally, we have determined that a memorandum dated March 24, 2006, also included with the documents provided by the Village, is exempt from disclosure under Section 7(1)(f) of FOIA. Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)) exempts from disclosure records that constitute "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record shall not be exempt when the record is publicly cited and identified by the head of the public body." We

have reviewed memorandum and have determined that it contains recommendations regarding employment issues and is thus exempt from disclosure under Section 7(1)(f) of FOIA.

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: 

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