



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

April 13, 2011

Nicole Both  
Freedom of Information Officer  
Metra  
547 West Jackson Blvd.  
Chicago, Illinois 60661

RE: Pre-Authorization Request – 2011 PAC 13364  
Requester: Bob Herguth, Better Government Association

Dear Ms. Both:

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

Bob Herguth submitted a FOIA request dated March 23, 2011, seeking a copy of Jon Gottlieb's employee photograph. Mr. Gottlieb is a former employee of Metra. In its written notice, Metra asserted that this photograph is exempt from disclosure under Section 7(1)(c) (5 ILCS 140/7(1)(c)).

**Determination**

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 the disclosure is consented to in writing by the individual subjects of the information." *Id.* 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.*

Metra's use of the exemption in Section 7(1)(c) with regard to Mr. Gottlieb's photograph is denied. This photograph does not depict anything that could be considered highly personal information, and the disclosure of this type of employee photograph would not be objectionable to a reasonable person. Therefore, we find that Metra has not sustained its initial burden of demonstrating that this photograph is exempt under Section 7(1)(c).

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Accordingly, Metra may not use the exemption in Section 7(1)(c) to withhold this photograph. If you have any questions, please feel free to contact the Public Access Counselor's Office at (877) 299-3642. This correspondence shall serve to close this matter.

Sincerely,

*Sarah Kaplan by EK*

Sarah Kaplan  
Assistant Public Access Counselor

cc: Bob Herguth  
Better Government Association  
223 West Jackson Blvd., Suite 620  
Chicago, Illinois 0606

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