



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 19, 2010

Mr. John B. Murphey
Rosenthal, Murphey, Coblenz and Donahue
30 North LaSalle Street, Suite 1624
Chicago, Illinois 60602

RE: Pre-Authorization Request 2010 PAC 10606

Dear Mr. Murphey:

We have received and reviewed the written notice from the City of Country Club Hills (City) 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, on October 28, 2010, [REDACTED] submitted a FOIA request to the City seeking information relating to the vacation days of Paula Smothers (Ms. Smothers) and the type of leave she is currently taking.

The City supplied [REDACTED] with the number of vacation days Ms. Smothers is eligible for as a City employee. On November 8, 2010, John Murphey (Mr. Murphey), on behalf of the City, sought our Office's approval to withhold the number of vacation days used by Ms. Smothers, any future vacation dates Ms. Smothers has scheduled, and the type of leave she is currently on. The City asserts that this information is exempt from disclosure pursuant 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.*

Determinations

The City's request for approval of its decision to withhold the information pursuant to Section 7(1)(c) is approved in part and denied in part.

Section 7(1)(c) provides that the disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of privacy. The fact that a public employee is on leave status and therefore is unable to perform his or her duties is precisely such information. Therefore, we conclude that disclosure of the general category of the leave taken (for example, vacation, compensatory time, sick time or family medical leave) would not constitute a highly unwarranted invasion of Ms. Smothers' personal privacy. The public has a legitimate public interest in the disclosure of this basic information.

However, a public employee does have a protectable privacy interest in the disclosure of details beyond the general category of the leave taken. Absent a compelling reason for disclosure, the privacy interests of the employee in not having the specific circumstances relating to the taking of leave disclosed will outweigh the public's general interest. Although the public may have legitimate interest in verifying whether a public employee's compensated time is properly accounted for, it does not ordinarily have a compelling need to learn the specific nature of an employee's illness or whether he or she plans to travel for vacation. Accordingly, the City must disclose any records that document the nature or category of Ms. Smothers' current leave status, but may redact from such records any information regarding the underlying reasons for the leave.

The City also argues that the disclosure of information relating to Ms. Smothers' vacation days would constitute an invasion of privacy. As discussed above, the disclosure of records documenting the dates and amounts of vacation time taken by Ms. Smothers relates directly to the performance of her public duties, and must be disclosed. The City may, however, redact from such records any additional explanatory or personal information that they may contain.

With respect to information regarding future vacation schedules or requests, we conclude that there is a legitimate personal privacy interest that outweighs the general public interest in disclosure. First, a request to take vacation leave does not impact the performance of an employee's public duties until the leave is actually taken. Second, disclosure in advance of an employee's plans to be absent from the workplace could potentially present a danger to the physical safety or wellbeing of the employee. Accordingly, the City may properly withhold records disclosing requests for time off that has not yet been taken.

If you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close the file.

Sincerely,

Cara Smith
Public Access Counselor

By:



Matthew C. Rogina
Assistant Public Access Counselor



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