



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

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December 17, 2010

Velisha Haddox,
Interim FOIA Officer
Office of the Governor
100 W. Randolph Street, 16th Floor
Chicago, IL 60601

Re: Pre-authorization request – 2010 PAC 11287

Dear Ms. Haddox:

We have received from the Office of the Governor a notice of intention to deny disclosure of certain information requested under the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended. [REDACTED] requested copies of all correspondence between the Governor's Office and the General Assembly regarding Roger Walker's nomination to the Prisoner Review Board, and all correspondence between the Governor's Office and the Board regarding Mr. Walker's absence from the Board. The Governor's Office requested pre-approval to redact portions of emails which expressed opinions, recommendations and assessments of possible courses of action pursuant to Section 7(1)(f) (5 ILCS 140/7(1)(f)). The Governor's Office also requested pre-approval to redact birth dates and information regarding Mr. Walker's family members pursuant to Section 7(1)(c) (5 ILCS 140/7(1)(c)).

Determination – Section 7(1)(f)

Section 7(1)(f) exempts from inspection and copying “[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 or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.” 5 ILCS 140/7(1)(f).

The request for pre-approval to redact portions of email messages pursuant to Section 7(1)(f) is **approved**. We have reviewed un-redacted portions of email messages exchanged by the Governor's Office and the Board. The portions of messages redacted by the Governor's Office are preliminary in nature and contain notes, opinions and recommendations regarding Mr. Walker's absence from the Board. The Governor's Office has asserted that the Governor has not publicly cited the redacted portions of the email messages. Accordingly, we conclude that the Governor's Office has sustained its initial burden of demonstrating that those records are exempt from disclosure under Section 7(1)(f).

Determination – Section 7(1)(c)

Information in public records is exempt if disclosure would "constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). An "[u]nwarranted invasion of personal privacy" is 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.*

The assertion of the Section 7(1)(c) exemption with respect to birth dates is **approved**. Birth dates are a highly personal form of information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). A subject's right to privacy outweighs any legitimate public interest in the disclosure of his or her date of birth.

The assertion of the Section 7(1)(c) exemption with respect to the names of Mr. Walker's immediate family members also is **approved**. Such information is highly personal by its very nature and has no relation to Mr. Walker's public duties. A subject's right to privacy outweighs any legitimate public interest in disclosure of information regarding the names of his or her immediate family members.

The Governor's office also redacted information regarding whether Mr. Walker voted in recent primary elections and which partisan ballot he requested in those elections. The Governor's Office did not specify a basis for that redaction. We note that such information is **not** exempt from disclosure under Section 7(1)(c). A voter in a primary election is required to publicly state his or her party affiliation at the polling place. 10 ILCS 5/7-44. Accordingly, disclosure of information regarding a primary voter's party affiliation does not constitute an unwarranted invasion of personal privacy.

The Governor's Office intends to redact additional pursuant to Section 7(1)(b) (5 ILCS 140/7(1)(b)). We have not analyzed the assertion of that exemption; the assertion of that exemption is not contingent upon receiving pre-approval from our office.

This letter shall serve to close this file. If you have any questions, please feel free to contact me at (312) 814-6756 or ssilverman@atg.state.il.us.

Sincerely,

Cara Smith
Public Access Counselor

By:



Steve Silverman
Assistant Public Access Counselor

cc:



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