



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 5, 2011

Trooper Kerry Sutton
Freedom of Information Act Officer
Illinois State Police
Kerry_Sutton@isp.state.il.us

RE: Pre-Authorization Request – 2010 PAC 11574

Dear Trooper Sutton:

We have received and reviewed the written notice from the Illinois State Police 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 December 27, 2010, the Law Offices of Steven Laduzinsky submitted a FOIA request to ISP seeking certified copies of all firearm owner identification cards and applications submitted by [REDACTED]

On December 28, 2010, ISP submitted its Pre-Authorization Request to this Office. In its written request, ISP has asserted that Ms. Caleo's application 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.* On January 4, 2010, ISP supplied this Office with a copy of [REDACTED] application.

¹ In addition to the application, Mr. Laduzinsky requested a copy of [REDACTED] FOID card. Pursuant to a January 5, 2011 conversation with a representative of this Office, Sgt. Kelly Walter informed us that they do not possess copies of FOID cards.

Determination

ISP's request for approval of its decision to withhold [REDACTED] application in its entirety pursuant to Section 7(1)(c) is denied.

ISP contends that an inherent right of privacy exists with regard to the ownership of a firearm. Section 65/4 of the Firearms Ownership Identification Act (430 ILCS 65/4) requires a FOID applicant to submit information to ISP that they will rely upon in determining whether the applicant is eligible to own a firearm.² ISP argues that disclosure of certain questions in the application and the applicant's answer to those questions constitutes an unwarranted invasion of personal privacy under Section 7(1)(c).

This Office has reviewed [REDACTED] application and we have concluded there is nothing in this particular application that could be considered highly personal or objectionable to the reasonable person. Moreover, an application for a FOID card does not reveal whether that person (1) was issued a FOID card or (2) if a FOID card was issued, whether that individual possesses an actual firearm.

Further, where the law requires an applicant for a license or permit to answer specific questions truthfully, unless the law provides for confidentiality, the disclosure of those responses will not constitute a violation of personal privacy. Seeking a license or permit is a voluntary act, and any person who does not wish to disclose the information may forego applying.

ISP may withhold private information contained in the application pursuant to Section 7(1)(b).

In summary, ISP has not met its burden pursuant to Section 7(1)(c) and must disclose the FOID application to Mr. Laduzinsky.

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,

Cara Smith
Public Access Counselor

By:

[REDACTED]
Matthew C. Rogina
Assistant Public Access Counselor

² Among the information that applicant is required to submit under Section 65/4 is whether they have ever been convicted of a misdemeanor; adjudicated as a delinquent or convicted of a felony; that they are not addicted to narcotics; that they are not unlawfully in the United States; that they have not been in a mental institution in the past 5 years; that they are not mentally retarded and that they have not been convicted of battery, assault or domestic battery.

cc: Law Office of Steven M. Laduzinsky, P.C.
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