



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 13, 2011

Ms. Erin Van De Walle
Deputy City Clerk
City of Elmhurst
foia@elmhurst.org

RE: Pre-Authorization Request - 2010 PAC 11709

Dear Ms. Van De Walle:

We have received and reviewed the written notice from the City of Elmhurst 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 140/7(1)(c), as amended.

On January 3, 2011, Dave Matthews, a staff reporter for the *Elmhurst Press*, submitted a FOIA request to the City seeking copies of all the application materials the City has received for those interested in the City Manager position.

On January 6, 2011, the City submitted a Pre-Authorization Request with this Office and asserted that the materials are 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.*

Determination

The City's request for approval of its decision to withhold the application materials pursuant to Section 7(1)(c) is approved.

In analyzing whether an applicant for a public position has a right of privacy, this Office made the following determination in No. 2010 PAC 6805, a Pre-Authorization Request

involving a FOIA request submitted to the University of Illinois by *WLS-TV*. In that letter, we noted the following with regard to applications for the presidency position:

Applications for employment generally contain information that is personal in nature and the release of which would be objectionable to the reasonable person. Further, in many cases, the fact that an individual is seeking new employment for a position is information that a reasonable person would view as highly personal and the release of that information is likely to be viewed as objectionable by most individuals. Publication of an individual's application for a position can negatively impact that individual's current employment and the release of personal information about applicants may also negatively impact a public body's ability to attract qualified applicants for open positions. Accordingly, as a result of our review, we have determined that the University may properly decline to disclose under Section 7(1)(c) the names of applicants for the position of University President and the applications submitted by those individuals.

Similarly, the disclosure of the names of the individuals who submitted application materials to the City for the manager position could be seen as highly personal or objectionable to the reasonable person. Because the City has not yet made a selection, we have determined there exists no overriding public interest in disclosure of the names of people who have submitted the information.¹


In summary, the City has met its initial burden pursuant to Section 7(1)(c) and may withhold the application materials.

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:


Matthew C. Rogina
Assistant Public Access Counselor

Cc: Dave Matthews
Elmhurst Press
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¹ We do suggest, however, that the upon the City's selection, that the City provide Mr. Matthews with the documents responsive to the successful applicant.