



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

January 14, 2011

Ms. Sharon McDowell
Freedom of Information Act Officer
Village of Alsip
4500 W. 123rd St.
Alsip, IL 60803

Dear Ms. McDowell:

RE: FOIA Pre-Approval Request – 2010 PAC 7928

We have received and reviewed the Village of Alsip's written response to our further inquiry letter which related to the Village's written notice of its intention to deny the disclosure of performance evaluations of four Village police officers requested by [REDACTED]. The Village asserts that these documents are exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c)) because they contain "personal information, the disclosure of which would result in a clearly unwarranted invasion of personal privacy."

In its response, the Village contends that disclosing the performance evaluations would constitute an unwarranted invasion of the personal privacy of the officers who are the subjects of the evaluations because each evaluation "contains a detailed analysis of each employee's strengths and weaknesses as gauged by the reviewers" and "[t]he disclosure of such sensitive material is highly objectionable." Section 7(1)(c) states, however, that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy." The evaluations in question bear on the duties of public employees, so disclosing them cannot be considered an invasion of personal privacy. The Village's request for preauthorization to assert a Section 7(1)(c) exemption is therefore denied.

We note, however, the House Bill 5154, which the Village mentioned in its response, has now been enacted by the General Assembly as Public Act 96-1483, the General Assembly having overridden Governor Quinn's amendatory veto. Effective December 1, 2010, Public Act 96-1483 amended Section 11 of the Personnel Records Review Act (820 ILCS 40/11) so that it now

states:

“This Act shall not be construed to diminish a right of access to records already otherwise provided by law provided that disclosure of performance evaluations under the Freedom of Information Act shall be prohibited.”


Section 7(a) of FOIA (5 ILCS 140/7(1)(a)) exempts from disclosure “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” The Village does not need preauthorization from the Public Access Counselor if it chooses to assert that the requested records are exempt under Section 7(a) of FOIA.

If you have any questions, please feel free to contact me at 312-814-2770. This correspondence will serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


John Schmidt
Assistant Attorney General

cc:



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