



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 22, 2010

Mr. Terrance Stefanski
FOIA Officer
Municipal Employees' Annuity and Benefit Fund of Chicago
221 N. LaSalle Street, Suite 500
Chicago, Illinois 60601

RE: FOIA Pre-Authorization Request 2010 PAC 9984

Dear Ms. Stefanski:

We have received written notice from the Municipal Employees' Annuity and Benefit Fund of Chicago (Fund) of its intention to withhold certain information from disclosure under Section 7(1)(c) of the Freedom of Information Act 5 ILCS 140/1 *et. seq.*, as amended (FOIA).

Specifically, Jim Kimberly, on behalf of the Res Publica Group, submitted a FOIA request on September 17, 2010 for "the database of all pension recipients that includes pension fund name, retiree name, employer, job title, retirement age, age at retirement, salary at retirement, years of service, annual pension, as well as other fields."

On September 30, 2010, the Fund submitted a Pre-Authorization Request with this Office and sought to withhold from disclosure the zip code and the age of the pension recipients under Section 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." 5 ILCS 140/7(1)(c). 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 Fund's request for approval to withhold documents pursuant to Section 7(1)(c) is hereby approved in part and denied in part.

With regard to the ages of the pension recipients, there is no significant expectation of privacy regarding the disclosure of an individual's age, in contrast, for example, to the disclosure of an individual's date of birth. The disclosure of a date of birth could subject that individual to identity theft. Such a threat is not likely with the disclosure of the individual's age. The Fund has not sustained its burden in demonstrating that the reference to an individual's age constitutes a highly unwarranted invasion of personal privacy under Section 7(1)(c).

With regard to the zip code, the Fund has not met its burden that disclosure of such information would be highly personal or objectionable to the reasonable person. The Fund, may however, redact this information pursuant to Section 7(1)(b) which exempts from disclosure 'private information.' 5 ILCS 140/7(1)(b).¹ A zip code can be considered to be part of an individual's home address which is exempt from disclosure pursuant to Section 7(1)(b).

While not expressly listed as part of its Pre-Authorization Request, the Fund asserted that it was redacting the first name of the minor children of the recipients. Please be advised that in 2010 PAC 8589, we noted the following with respect to the beneficiaries of the recipients:

[i]nformation identifying the beneficiaries of pension fund participants, a beneficiary of a pension fund has a reasonable expectation of privacy that his or her name will not be disclosed to the public. These individuals may or may not be public employees and are generally named as beneficiaries based on their personal relationship with the pension fund participant. The beneficiaries' designation as such has no relationship to the participant's public duties, and there is nothing that suggests that the public has a significant legitimate interest in obtaining the names of the beneficiaries.

Therefore, this Office has determined that the first names of the minor beneficiaries may be properly redacted pursuant to Section 7(1)(c).

Accordingly, it is the determination of this Office that the Fund has not met its burden with regard to the ages of the recipients, but has met its burden with the first names of the minor children of the recipients. The Fund may also redact the zip code pursuant to Section 7(1)(b). Because Section 9.5(b) only requires this Office to make determination as to Section 7(1)(c) and Section 7(1)(f), this Office declines to make any findings with respect to Section 7(1)(o).

¹ Section 2(c-5) defines private information as unique identifiers, such as "a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal e-mail addresses. Private information also includes home addresses and personal license plates, except as otherwise provided by law or when compiled without the possibility of attribution to any person." 5 ILCS 140/2(c-5).

Sincerely,

Cara Smith
Public Access Counselor

By: 

Matthew C. Rogina
Assistant Public Access Counselor
2010 PAC 9984 al di emp inf mun .

cc: Jim Kimberly
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