



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 15, 2011

Mr. Todd Rent
Human Relations/Compliance Officer
City of Urbana
400 South Vine Street
Urbana, Illinois 61801

RE: FOIA Pre-Authorization Request – 2011 PAC:12253

Dear Mr. Rent:

We have received and reviewed the written notice from the City of Urbana of its intention to deny in part disclosure of certain information requested by [REDACTED] [REDACTED] had requested an electronic copy of a day care center videotape showing an incident in which a child was allegedly physically abused and other information gathered during the investigation of this incident. The City states that it will provide some of the requested records to [REDACTED] but it intends to withhold the videotape of the incident and two photographs which depict the child's injuries on the basis that they 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."

Under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)), the following is exempt from disclosure by public bodies:

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means 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. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

Thus, a public body seeking to rely on this exemption must show: 1) that the information is highly personal or that disclosure would be highly objectionable to a reasonable person; and 2) that the subject's right to privacy outweighs any legitimate public interest in obtaining the information. *Id.* Under Section 1.2 of FOIA (5 ILCS 140/1.2), the public body has the burden of proving a claimed exemption by clear and convincing evidence.

After carefully reviewing the materials submitted by the City, we have determined that the videotape and the photographs contain highly personal information and disclosure of these records would be highly objectionable to a reasonable person. We further determine that the privacy interests of the alleged victim, who is a child, would outweigh the public interest in obtaining the information. We therefore conclude that the City has met its burden of showing by clear and convincing evidence that this information is exempt, and the request to assert the exemption under Section 7(1)(c) is accordingly approved.

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

Sincerely,


John Schmidt
Assistant Public Access Counselor

cc:

