



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 20, 2014

Via electronic mail
Ms. Joyce Tucker
vnhrecords@aol.com

Ms. Nancy Cash, FOIA Officer
Village of North Henderson
P.O. Box 101
North Henderson, Illinois 61466

RE: FOIA Request for Review – 2014 PAC 27522

Dear Ms. Tucker and Ms. Cash:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2012)). For the reasons that follow, the Public Access Bureau concludes that the Village of North Henderson (Village) improperly withheld records responsive to Ms. Joyce Tucker's November 24, 2013, FOIA request.

On November 24, 2013, Ms. Tucker submitted a 5-part FOIA request to the Village seeking copies of various records, including the water bills of Village trustees and officers. On December 2, 2013, the Village provided responsive records but denied Ms. Tucker's request for water bills pursuant to section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c) (West 2012), as amended by Public Acts 98-463, effective August 16, 2013; 98-578, effective August 27, 2013). In her Request for Review, Ms. Tucker states that the records provided were incomplete and contests the Village's assertion that disclosing water bills would be an unwarranted invasion of personal privacy.

This office forwarded a copy of the Request for Review to the Village and asked it to provide a detailed explanation of the applicability of the section 7(1)(c) exemption. On January 23, 2014, Village Clerk Nancy Cash forwarded this office an e-mail correspondence between herself and Ms. Tucker, which indicated that Ms. Tucker was now satisfied with a supplemental production of records concerning the Village correspondences and banking

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statements.¹ Furthermore, Ms. Cash stated that she would not provide the requested records to Ms. Tucker without the permission of the individual water customers. On January 24, 2014, Ms. Cash indicated that the Village could provide the water bills but only by redacting the name, address and account number of the customer.²

DETERMINATION

All public records in the possession or custody of a public body are "presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2012); *see also Southern Illinoisan v. Illinois Dept. of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body "has the burden of proving by clear and convincing evidence" that a record is exempt from disclosure. 5 ILCS 140/1.2 (West 2012).

Section 7(1)(c)

Section 7(1)(c) of FOIA exempts from disclosure "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 7(1)(c) defines "unwarranted 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."

Here, the requested water bills reflect amounts owed to the Village. This office has previously concluded that that records relating to public utility bills is not highly personal information, the disclosure of which would be highly objectionable to a reasonable person. Ill. Att'y Gen. PAC Req. Rev. Ltr. 14080, issued May 19, 2011. Such records relate to "the obligation, receipt, and use of public funds" by a unit of local government and therefore are expressly "subject to inspection and copying by the public[]" pursuant to section 2.5 of FOIA (5 ILCS 140/2.5 (West 2012)). Accordingly, we conclude that the Village has not sustained its burden of demonstrating that water bills are exempt from disclosure pursuant to section 7(1)(c) of FOIA.

Section 7(1)(b)

Furthermore, although not asserted by the Village, section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b) (West 2012), as amended by Public Acts 98-463, effective August 16, 2013; 98-578, effective August 27, 2013) exempts from disclosure "[p]rivate information, unless

¹E-mail from Nancy Cash, FOIA Officer, Village Clerk, to Christopher Boggs (January 23, 2014).

²E-mail from Nancy Cash, FOIA Officer, Village Clerk, to Christopher Boggs (January 24, 2014).

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disclosure is required by another provision of this Act, a State or federal law or a court order." Section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2012)), defines "private information" as:

[U]nique identifiers, including 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 email addresses. Private information also includes **home address** and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Emphasis added).

The Village indicates that it would provide the requested water bills, subject to redactions of the name, address and account number of the customer. Customer account numbers, as a unique identifier, and home addresses are "private information" under the plain language of section 2(c-5) and are, therefore, exempt from disclosure. However, the Public Access Bureau has previously determined that names are not within the scope of section 7(1)(b):

Although names are unquestionably "personal information" in the sense that they are specific to particular persons (*see Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 411 (1997)), they are neither confidential nor unique. To the contrary, names are "basic identification," and as the Supreme Court concluded in *Lieber*, "[w]here the legislature intended to exempt a person's identity from disclosure, it [has done] so explicitly." *Lieber*, 176 Ill. 2d at 412. Therefore, by excluding names from the definition of "private information," the General Assembly clearly did not intend for names to be exempt from disclosure under section 7(1)(b) of FOIA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 13610, issued December 9, 2011.

Accordingly, the customer account numbers and home addresses of account holders may be properly redacted. However, the name associated with a customer account is not exempt from disclosure under section 7(1)(b).

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In accordance with the conclusions expressed in this determination, this office directs the Village to provide the requested records to Ms. Tucker, subject only to proper redactions under section 7(1)(b) of FOIA. The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, please contact me at the Springfield address listed on the first page of this letter.

Very truly yours,



CHRISTOPHER R. BOGGS
Assistant Attorney General
Public Access Bureau

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