



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 25, 2014

PUBLIC ACCESS OPINION 14-015
(Request for Review 2014 PAC 30785)

FREEDOM OF INFORMATION ACT:
Disclosure of Résumé and Job Application
of Public Employee

Mr. William Buell
2753 39th Avenue
Columbus, Nebraska 68601

Mr. Mark Swenson
Management Analyst
Village of Winnetka
510 Green Bay Road
Winnetka, Illinois 60093

Dear Mr. Buell and Mr. Swenson:

This is a binding opinion issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2012)). For the reasons discussed below, this office concludes that the Village of Winnetka (Village) violated the requirements of FOIA by denying in its entirety Mr. William Buell's request for a copy of the résumé and employment application of a Village employee.

BACKGROUND

Mr. Buell submitted an undated FOIA request to the Village seeking "a copy of the completed employment application and resume for Mr. James J. Bernahl for the position of Assistant Director of Public Works & Engineering[.]"¹ In a letter dated August 12, 2014, the

¹FOIA request submitted by William Buell to Village of Winnetka (undated).

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Village denied that request citing section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c) (West 2013 Supp.), as amended by Public Act 98-695, effective July 3, 2014),² which exempts "personal information" from disclosure, and section 7.5(q) of FOIA (5 ILCS 140/7.5(q) (West 2013 Supp.), as amended by Public Act 98-756, effective July 16, 2014),³ which exempts from inspection and copying "[i]nformation prohibited from being disclosed by the Personnel Record[] Review Act." On August 13, 2014, the Public Access Bureau received Mr. Buell's Request for Review of the denial of his FOIA request, in which he also expressed his concern that Mr. Bernahl's "hir[ing] may have been in violation of State of Illinois - 65 ILCS 5/5-3-7(2) and 330 ILCS 55/1 (from Ch. 126 ½, par. 23)[.]"⁴

On August 18, 2014, the Public Access Bureau sent a copy of the Request for Review to the Village and asked it to provide unredacted copies of the records it withheld for this office's confidential review, together with a detailed explanation of the factual and legal bases for its assertion that those records are exempt from disclosure under sections 7(1)(c) and 7.5(q) of FOIA.⁵ The Village furnished the requested materials on August 29, 2014, and asserted in its response that the records are exempt from disclosure pursuant to section 7(1)(c) of FOIA.⁶ The Village's response did not include a discussion of the applicability of section 7.5(q), but did assert that the records are also exempt from disclosure in their entireties pursuant to sections 7(1)(f) and 7(1)(b) of FOIA (5 ILCS 140/7(1)(f), 7(1)(b) (West 2013 Supp.), as amended by

²The letter from the Village references "Section 7.1(c) of the Act[.]" Because section 7.1 of FOIA (5 ILCS 140/7.1 (West 2008)) has been repealed (*see* Public Act 96-542, effective January 1, 2010)), we have assumed that the reference in the letter is to section 7(1)(c) of FOIA. *See* Letter from Mark Swenson, Management Analyst, Village of Winnetka, to William Buell (August 12, 2014).

³Letter from Mark Swenson, Management Analyst, Village of Winnetka, to William Buell (August 12, 2014).

⁴E-mail from William Buell to Sarah Pratt, Public Access Counselor, Office of the Attorney General (August 13, 2014).

⁵Letter from Steve Silverman, Assistant Bureau Chief, Public Access Bureau, to Mark Swenson, Management Analyst, Village of Winnetka (August 18, 2014).

⁶Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 1-2.

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Public Act 98-695, effective July 3, 2014).⁷

On September 2, 2014, this office sent a copy of the Village's response to Mr. Buell.⁸ He did not submit a reply.

On October 10, 2014, the Public Access Bureau properly extended the time in which to issue a binding opinion pursuant to section 9.5(f) of FOIA (5 ILCS 140/9.5(f) (West 2012)).⁹

ANALYSIS

"It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with [FOIA]." 5 ILCS 140/1 (West 2012). Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2012)), "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2012)) provides that "[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act."

Section 7(1)(c) of FOIA

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, unless the disclosure is consented to in writing by the individual subjects of the information." FOIA defines an "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

⁷Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 2-3.

⁸Letter from Steve Silverman, Assistant Attorney General, Public Access Bureau, to [William] Buell (September 2, 2014).

⁹Letter from Steve Silverman, Assistant Bureau Chief, Public Access Bureau, to [William] Buell and Mark Swenson, Management Analyst, Village of Winnetka (October 10, 2014).

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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.** (Emphasis added.) 5 ILCS 140/7(1)(c) (West 2013 Supp.) as amended by Public Act 98-756, effective July 16, 2014.

In response to the Public Access Bureau, the Village argued that because the employment history and other information in Mr. Bernahl's résumé and employment application "do not pertain to the public duties of public employees and are 'properly contained within a personnel file . . . [they] **[are] per se exempt from disclosure**'" under FOIA.¹⁰ (Emphasis in original.) In support of that argument, the Village cited several cases (*see Gekas v. Williamson*, 393 Ill. App. 3d 573, 583 (4th Dist. 2009); *Stern v. Wheaton-Warrenville Community Unit School District 200*, 233 Ill. 2d 396 (2009); *Copley Press, Inc. v. Board of Education for Peoria School District No. 150*, 359 Ill. App. 3d 321 (3rd Dist. 2005)), which interpreted an earlier version of the personal privacy exemption. Prior to January 1, 2010, the personal privacy exemption was found in section 7(1)(b) of FOIA (*see* 5 ILCS 140/7(1)(b) (West 2008)) and exempted from disclosure:

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of 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.** Information exempted under this subsection (b) shall include but is not limited to:

* * *

(ii) **personnel files** and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions. (Emphasis added.)

¹⁰Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 2.

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In analyzing the personal privacy exemption found in section 7(1)(b) prior to January 1, 2010, appellate court districts reached different conclusions regarding whether information falling within a specific statutory category, such as 7(1)(b)(ii), was exempt *per se* from disclosure, or whether a court was nonetheless required to analyze whether disclosure would amount to a clearly unwarranted invasion of personal privacy by balancing: (1) the plaintiff's interest in disclosure; (2) the public interest in disclosure; (3) the degree of invasion of personal privacy; and (4) the availability of alternative means of obtaining the requested information. In *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 408 (1997), the Illinois Supreme Court concluded that the disclosure of records falling within one of the categories in section 7(1)(b) would presumptively result in an unwarranted invasion of personal privacy. Accordingly, under *Lieber*, records contained in a public body's personnel files were considered *per se* exempt from disclosure and no balancing of interests was required.

The Village's reliance on *Copley Press*, *Gekas*, and *Stern* to deny Mr. Buell's FOIA request is misplaced, however. Subsequent to these decisions, the General Assembly enacted Public Act 96-542, effective January 1, 2010, amending FOIA and, among other things, replacing former section 7(1)(b) with current section 7(1)(c), which addresses disclosure of information that would constitute a clearly unwarranted invasion of personal privacy. Under section 7(1)(c), records are no longer exempted simply because they are maintained in a personnel file. Rather, a public body is obligated to release records containing personal information regarding its officers and employees unless it determines that "the subject's right to privacy outweighs any legitimate public interest in obtaining the information." In other words, the General Assembly has replaced the *per se* exemptions with a balancing test requiring a public body to balance the privacy rights of an employee and the interests of the public in obtaining information concerning the employee. In balancing these interests, "[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 courts in *Copley Press*, *Gekas*, and *Stern* did not directly address whether information contained in a public employee's résumé and job application bears on his or her public duties. Although the court in *Copley Press* held that records properly placed in a "personnel file" were *per se* exempt, and that "[g]iven its plain and ordinary meaning, a 'personnel file' can reasonably be expected to include documents such as a resume or application," the Supreme Court in *Stern* emphasized that *Copley* provided little guidance because the appellate court did not "consider whether a document, even if normally maintained in a personnel file, is subject to disclosure because it bears on the public employee's public

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duties." *Stern*, 233 Ill. 2d at 409; *see also Gekas*, 393 Ill. App. 3d at 589 (stating that *Copley Press* was distinguishable because it did not involve a "claim by the requester that the information related to a public employer's public duties."). Notably, the court in *Gekas* held that because complaints against a police officer do bear on the officer's public duties, those records were not exempt from disclosure pursuant to former section 7(1)(b). In *Stern*, the Court reached a similar conclusion with respect to the disclosure of a school superintendent's employment contract.

The Village also cited *State Journal-Register v. University of Illinois Springfield*, 2013 IL App (4th) 120881, 994 N.E.2d 705 (2013). There, the court considered, among other things, whether records of the "coaches' election for the disbursement of [compensation for] accrued vacation, sick leave, and related documents[]" contained in their personnel files were exempt from disclosure pursuant to section 7(1)(c) of FOIA. *State Journal-Register*, 2013 IL App (4th) 120881, ¶41, 994 N.E.2d at 716. The court held that the exemption applied to those records because they were unrelated to the coaches' "alleged misdeeds or public duties. Instead, we conclude this information is of a highly personal nature, contained appropriately in a personnel file, and exempt from disclosure." *State Journal-Register*, 2013 IL App (4th) 120881, ¶41, 994 N.E.2d at 716. The court's decision, however, was limited to the specific records at issue in that case, which were unrelated to the résumé and employment application which Mr. Buell sought.

With regard to whether the resume and employment application "bear on the public duties of a public employee" for purposes of section 7(1)(c), the Village contends that these records "contain personal, historical information about Mr. Bernahl, not information about Mr. Bernahl's current duties and responsibilities as a Village employee or his performance of those duties."¹¹ The Village interprets this phrase too narrowly. The records in question detail the education, training, and experience that qualify Mr. Bernahl to serve as Assistant Director of Public Works and Engineering and which presumably were considered in determining his eligibility for that position in the first instance. Moreover, these are all factors that "bear on" his ability to perform his public duties satisfactorily.

Even assuming that Mr. Bernahl's résumé and application do not bear on his public duties for purposes of section 7(1)(c), the Village has not sustained its burden of demonstrating by clear and convincing evidence that the exemption is applicable. As previously

¹¹Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 2.

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noted, the resolution of a personal privacy exemption claim under section 7(1)(c) requires the balancing of the public's interest in disclosure of specific information against the individual's interest in privacy. See *Gibson v. Illinois State Board of Education*, 289 Ill. App. 3d 12, 20-21 (1st Dist. 1997). Therefore, to determine whether section 7(1)(c) of FOIA exempts from disclosure the résumé and application of a public employee, the interests of the public in accessing that information must be balanced against the employee's interest in limiting public dissemination of the information. This determination is made by considering and weighing four factors: "(1) the [requester's] interest in disclosure, (2) the public interest in disclosure, (3) the degree of invasion of personal privacy, and (4) the availability of alternative means of obtaining the requested information." *National Ass'n of Criminal Defense Lawyers v. Chicago Police Department*, 399 Ill. App. 3d 1, 13 (1st Dist. 2010). The exemption is applicable only if the individual's privacy interests outweigh the interests of the public in disclosure. In balancing these interests, the General Assembly's use of the phrase "*clearly unwarranted* invasion of personal privacy" evinces a "stricter standard to claim exemption" which the government agency possessing the records bears the burden of sustaining. (Emphasis in original.) *Schessler v. Department of Conservation*, 256 Ill. App. 3d 198, 202 (4th Dist. 1994).

Mr. Buell's stated interest in disclosure is to determine whether Mr. Bernahl's hiring complied with State laws that require municipal managers to make appointments based on "merit and fitness" (65 ILCS 5/5-3-7 (West 2012)) and that give preference to veterans of the armed forces (330 ILCS 55/0.01 *et seq.* (West 2012)). Mr. Buell and the general public have an interest in accessing information that demonstrates that the hiring of public employees complies with State law. Further, there is a compelling public interest in disclosure of a public employee's credentials to enable the public to assess the employee's qualifications to perform his or her public duties.

In *Core v. United States Postal Service*, 730 F.2d 946 (4th Cir. 1984), a federal appeals court considered whether the disclosure of the work experience of five successful applicants for public employment would constitute an unwarranted invasion of personal privacy under Exemption 6 of the federal FOIA (5 U.S.C. § 552(b)(6) (1982)).¹² The requester sought the employees' education and work experience because he believed that "the Service had violated hiring regulations." *Core*, 730 F.2d at 947. The Postal Service provided the educational qualifications, but asserted that disclosure of the work experience would "result in a clearly unwarranted invasion of privacy because it was inextricably interwoven with the textual

¹²That exemption applies to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6) (1982).

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summary of the applications and was so detailed that individual applicants could be identified even if their names were removed from the applications." *Core*, 730 F.2d at 947. The court rejected that argument, stating:

The information they furnished is not derogatory. It is simply the type of information every applicant seeks to bring to the attention of a prospective employer. In short, disclosure of information submitted by the five successful applicants would cause but a slight infringement of their privacy. In contrast, the public has an interest in the competence of people the Service employs and in its adherence to regulations governing hiring. Disclosure will promote these interests. *Core*, 730 F.2d at 948.

See also Kureczka v. Freedom of Information Commission, 228 Conn. 271, 280, 636 A.2d 777, 782 (Conn. 1994) (affirming administrative agency's determination that disclosure of employment applications would not constitute an unwarranted invasion of the applicants' privacy rights); *State ex rel. The Plain Dealer Publishing Co. v. Cleveland*, 75 Ohio St. 3d 31, 36, 661 N.E.2d 187, 192 (Ohio 1996), quoting *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316, 1324 (Alaska 1982) ("Disclosing the names and applications of applicants allows interested members of the public, such as the newspapers here, to verify the accuracy of the representations made by the applicants and to seek additional information which may be relevant to the selection process.").

With respect to the third factor, while the records contain personal information concerning Mr. Bernahl's education, training, skills, certifications, awards, employment, salary history, career objectives, and personal references, that information is presented in a favorable manner and is not embarrassing or potentially damaging to Mr. Bernahl's reputation. Moreover, the salary information in the employment application reflects payments of public funds that Mr. Bernahl received exclusively for employment in the public sector. Such information is expressly subject to disclosure pursuant to section 2.5 of FOIA (5 ILCS 140/2.5 (West 2012)), which provides that "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public." Similarly, the references listed by Mr. Bernahl are public employees, therefore those names may not be withheld under 7(1)(c).

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Finally, it is unclear whether some or all of this information could be obtained from other sources, in particular other public entities that previously employed Mr. Bernahl. However, because the Village is Mr. Bernahl's current employer, it appears likely that the information he provided to the Village is more complete and up to date than similar information that he may have provided to previous employers. Further, obtaining this information could require Mr. Buell to make application to several sources. Taking all of these factors into account, this office concludes the public interest in disclosure of Mr. Bernahl's résumé and employment application outweighs Mr. Bernahl's privacy interests therein. Accordingly, the Village has not sustained its burden of demonstrating that these records are exempt from disclosure in their entirety pursuant to section 7(1)(c) of FOIA.

Section 7.5(q) of FOIA

The Village's responses to the FOIA request and to this office's inquiry letter do not provide a factual or legal basis for its assertion of section 7.5(q) of FOIA. Section 7.5(q) of FOIA exempts from disclosure "[i]nformation prohibited from being disclosed by the Personnel Record [] Review Act." Section 11 of the Personnel Record Review Act (820 ILCS 40/11 (West 2012)) provides that "[t]his 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.**" (Emphasis added.) Although section 8 of the Personnel Record Review Act (820 ILCS 40/8 (West 2012)) directs an employer to delete "disciplinary reports, letters of reprimand, or other records of disciplinary action which are more than 4 years old" prior to releasing personnel record information, the Act does not prohibit the disclosure of any records other than performance evaluations. No provision of the Personnel Record Review Act prohibits a public body from disclosing résumés or employment applications. Accordingly, this office concludes that the Village has not sustained its burden of demonstrating that the records are exempt from disclosure pursuant to section 7.5(q) of FOIA.

Section 7(1)(f) of FOIA

The Village's response to this office also asserted that Mr. Bernahl's résumé and employment application were properly withheld pursuant to section 7(1)(f) of FOIA, which exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body." The section 7(1)(f)

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exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (1st Dist. 2003). The exemption is "intended to protect the communications process and encourage frank and open discussion among agency employees before a final decision is made" (*Harwood*, 344 Ill. App. 3d at 248), and is "the equivalent of the 'deliberative process' exemption found in section 552(b)(5) of the federal Freedom of Information Act, which exempts from disclosure interagency and intra-agency predecisional and deliberative material." *Dumke v. City of Chicago*, 2013 IL App (1st) 121668, ¶14, 994 N.E.2d 573, 578 (2013). That exemption "typically does not justify the withholding of purely factual material." *Enviro Tech Intern., Inc. v. United States Environmental Protection Agency*, 371 F.3d 370, 374 (7th Cir. 2004). Rather, "[o]nly those portions of a predecisional document that reflect the give and take of the deliberative process may be withheld." *Kalven v. City of Chicago*, 2013 IL App (1st) 121846, ¶24, 7 N.E.3d 741, 748 (2013), quoting *Public Citizen, Inc. v. Office of Management & Budget*, 598 F.3d 865, 876 (D.C. Cir. 2010).

The Village's response to this office contends that Mr. Bernahl's résumé and employment application fall within the scope of section 7(1)(f) because he provided them to the Village "for the sole purpose of assisting the Village" in its selection of an Assistant Director of Public Works and Engineering and because they were considered by the Village in its deliberative process.¹³ However, the records contain exclusively factual information concerning Mr. Bernahl's background and qualifications for employment. Further, this factual information is not part of a pre-decisional document that reflects the give and take of the Village's hiring process. Because the employment application and résumé are factual records, this office concludes that the Village has not sustained its burden of demonstrating that all or part of those records are exempt from disclosure pursuant to section 7(1)(f) of FOIA.

Section 7(1)(b) of FOIA

Finally, the Village asserts that the records in question "contain many unique personal identifiers of Mr. Bernahl, including Mr. Bernahl's personal home address, home phone number, mobile phone number, personal e-mail address, and signature[.]" which are exempt

¹³Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 2.

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from disclosure pursuant to section 7(1)(b) of FOIA.¹⁴ That exemption applies to "private information," which FOIA defines as:

unique 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. 5 ILCS 140/2(c-5) (West 2012).

"When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under [section 7], but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying." 5 ILCS 140/7(1) (West 2013 Supp.), as amended by Public Act 98-695, effective July 3, 2014.) Accordingly, the Village may properly redact the information listed in the above definition, as well as Mr. Bernahl's signature, which uniquely identifies him and therefore constitutes "private information" that is exempt from disclosure pursuant to section 7(1)(b) of FOIA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the arguments presented, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) Mr. William Buell submitted an undated FOIA request to the Village of Winnetka seeking Mr. James J. Bernahl's employment application and résumé submitted for the position of Assistant Director of Public Works and Engineering.

2) On August 12, 2014, the Village denied Mr. Buell's request citing as its basis sections 7(1)(c) and 7.5(q) of FOIA.

¹⁴Letter from Peter M. Friedman, Holland & Knight LLP, to Steve Silverman, Assistant Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (August 29, 2014), at 3.

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3) On August 13, 2014, the Public Access Bureau received Mr. Buell's Request for Review of the denial of his request in which he also questioned whether Mr. Bernahl's hiring violated provisions of the Illinois Municipal Code (65 ILCS 5/1-1-1 *et seq.* (West 2012)) and the Veterans Preference Act (330 ILCS 55/0.01 *et seq.* (West 2012)).

4) On August 18, 2014, the Public Access Bureau sent a copy of the Request for Review to the Village and asked it to provide copies of the records it had withheld for this office's confidential review, together with a detailed explanation of the factual and legal bases for its assertion that those records are exempt from disclosure under sections 7(1)(c) and 7.5(q) of FOIA.

5) On August 29, 2014, the Village furnished copies of the records and its response. In its response, the Village argued that the records are exempt from disclosure in their entirety pursuant to sections 7(1)(c) and 7(1)(f), and that portions of the records are exempt under section 7(1)(b). The Village did not, however, provide a discussion of its reasons for asserting section 7.5(q).

6) On October 10, 2014, the Public Access Bureau properly extended the time in which to issue a binding opinion pursuant to section 9.5(f) of FOIA, to November 25, 2014. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

7) Because Mr. Bernahl's employment application and résumé bear on his public duties as the Village's Assistant Director of Public Works and Engineering, those records are not exempt from disclosure under section 7(1)(c) of FOIA.

8) Further, there is a compelling public interest in the disclosure of a public employee's credentials in order to assess his or her qualifications for public employment and to determine whether the hiring complied with applicable laws or rules and regulations. That public interest outweighs a public employee's right to privacy of the information contained in his or her employment application and résumé. Therefore, Mr. Bernahl's employment application and résumé are not exempt from disclosure in their entirety under section 7(1)(c) of FOIA.

9) No provision of the Personnel Record Review Act prohibits a public body from disclosing an employment application or résumé.

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10) Mr. Bernahl's employment application and résumé consist entirely of factual information and that factual information is not part of a pre-decisional document that reflects the give and take of the Village's hiring process. As a result, the records are not exempt from disclosure pursuant to section 7(1)(f) of FOIA.

11) Pursuant to section 7(1)(b) of FOIA, the Village may properly redact Mr. Bernahl's signature from the employment application and résumé, as well as "private information" under the definition of that term in section 2(c-5) of FOIA.

Therefore, it is the opinion of the Attorney General that the Village has improperly denied, in part, Mr. Buell's Freedom of Information Act request in violation of the requirements of the Act. Accordingly, the Village is hereby directed to take immediate action to comply with this opinion by providing Mr. Buell with Mr. Bernahl's employment application and résumé, subject to permissible redactions pursuant to section 7(1)(b) of FOIA.

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2012). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. William Buell as defendants. *See* 5 ILCS 140/11.5 (West 2012).

Sincerely,

LISA MADIGAN
ATTORNEY GENERAL

By: 

Michael J. Luke
Counsel to the Attorney General

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