

PAC Reiterates That Public Officials' Private Information Is Exempt from Disclosure

The Public Access Counselor ("PAC") issued a non-binding opinion that held public officials and employees' unique identifying information, such as home telephone numbers and personal addresses, is private and exempt from disclosure under the Freedom of Information Act ("FOIA") (5 ILCS 140/7(1)(b)).

On January 8, 2016, the PAC issued non-binding opinion 2015 PAC 36978 affirming the Algonquin Area Public Library District's (the "District") partial denial of information sought in a six-part FOIA request, seeking, among other items, a list of the District's Board of Trustees (the "Trustees") and their personal identifying information, specifically their home addresses and personal telephone numbers. The District provided the names and email address for the Trustees, but redacted their home addresses and personal telephone numbers pursuant to section 7(1)(b) of FOIA (5 ILCS 140).

The requestor submitted a review challenging the District's redactions by arguing that the Trustee members' home addresses and personal telephone numbers are not exempt from disclosure because the members are elected officials and the District uses the redacted information to conduct District business. The PAC rejected this argument and held that under section 7(1)(b) of FOIA, it "is clear that the redacted information is exempt from disclosure."

The PAC acknowledged that FOIA provides by statute that "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying" (5 ILCS 140/1.2). Further, in order to deny a request for information, the public body "has the burden of proving by clear and convincing evidence" that a record is exempt



Klein, Thorpe & Jenkins, Ltd.

Chicago

20 N. Wacker Drive, Suite 1660
Chicago, IL 60606
T 312.984.6400 F 312.984.6444

Orland Park

15010 S. Ravinia Avenue, Suite 10
Orland Park, IL 60462
T 708.349.3888 F 708.349.1506

www.ktjlaw.com

from disclosure (5 ILCS 140/1.2).

However, the PAC also noted Section 7(1)(b), which exempts from disclosure of public employees' "[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order" (5 ILCS 140/2(c-5)). The statute specifically includes "home or personal telephone numbers" and "home address" in its definition of "private information."

Because FOIA specifically exempts home telephone numbers and addresses, the PAC determined that the District properly redacted this information and did not violate FOIA. The PAC also referred to two prior letters it issued where it found that the home addresses of school board members were exempt and that the home addresses and personal telephone numbers of library trustees were exempt as private information. Further, the requestor failed to cite to any law, state or federal, that required the disclosure of this information. Thus, the District acted in accordance with the requirements of FOIA.

Klein, Thorpe & Jenkins, Ltd.

Chicago

20 N. Wacker Drive, Suite 1660
Chicago, IL 60606
T 312.984.6400 F 312.984.6444

Orland Park

15010 S. Ravinia Avenue, Suite 10
Orland Park, IL 60462
T 708.349.3888 F 708.349.1506

www.ktjlaw.com