



MIKE SCHMIDT, District Attorney for Multnomah County

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April 12, 2023

VIA EMAIL ONLY

Patrick Cashman
pcashman20@gmail.com

Trevor Byrd
Deputy City Attorney
trevor.byrd@portlandoregon.gov

Re: Petition of Patrick Cashman seeking production of redacted material from the City of Portland

Dear Mr. Cashman and Mr. Byrd:

On March 17, 2023, petitioner, Patrick Cashman, made a public records request to the City of Portland for, “every text message received by City employee Michael Montoya on 1/9/2023.” The City provided petitioner with responsive records on April 4, 2023, with the exception of a single five-word passage redacted from a text message received by Mr. Montoya at 19:42.

The text of the message, as provided to petitioner, reads “Can I have the afternoon off? Last minute I know but REDACTED... now that BDS people know they want to know if I am coming back.”

The City asserts that the redacted words contain medical information that is exempt from disclosure as an unreasonable invasion of the particular employee’s privacy. The City has made the unredacted version of the text message available to this office and, having reviewed it, we agree.

DISCUSSION

A. Information of a Personal Nature – ORS 192.355(2)

ORS 192.355(2) exempts from disclosure,

Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

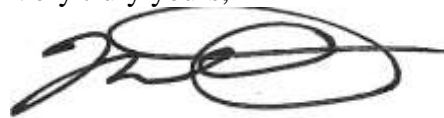
The redacted information is undeniably personal to an individual employee. The City asserts that this information, “relates to a clinically diagnosed medical condition particular to and closely-held by the employee.” The City further informs us that it has contacted the affected employee (who is not Mr. Montoya) and that person has stated that disclosure of this not-generally-known information would be highly offensive and would constitute an unreasonable invasion of privacy. Both this office and the Attorney General have determined that a person’s medical information is generally regarded as highly private and not subject to release. ATTORNEY GENERAL’S PUBLIC RECORDS MANUAL (2019) at 96 (“[p]ersonal medical information is ... generally regarded as highly private”); *Petition of Floum*, MCDA PRO 17-28 (2017) (“we have previously held that disclosure of a person’s medical information is presumptively an unreasonable invasion of privacy.”)

The City has met its burden of establishing that the withheld information is both personal and that its release would unreasonably invade the privacy of an individual. Having made these findings, the burden then shifts to petitioner to show that the public interest nonetheless requires disclosure in a particular interest. Petitioner in this case has advanced no public interest argument in relation to the redacted material.

ORDER

Accordingly, the petition is denied.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mike Schmidt", written over a horizontal line.

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon