

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**
Appeal No. 27-08

**ORDER DENYING
STIPULATED MOTION FOR PROTECTIVE ORDER
CONCERNING CONFIDENTIAL INFORMATION**

IN THE MATTER OF THE APPEAL OF:

BRENT NAGEN,
Appellant,

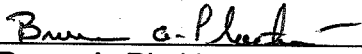
vs.

DEPARTMENT OF AVIATION,
and the City and County of Denver, a municipal corporation, Agency.

On May 9, 2008, the parties filed a stipulated motion seeking a protective order. As grounds, the parties state (1) some unidentified documents requested in discovery contain confidential information, (2) because the documents contain confidential information, restrictions are required for the production and use of those documents, and (3) the parties and their legal counsel have agreed to procedures and restrictions they deem acceptable to safeguard the confidentiality of the documents.

As a general matter, confidentiality may be invoked by either or both parties. However, when the right to confidentiality is invoked to prevent disclosure of personal materials or information, the hearing officer must conduct a balancing inquiry, weighing competing interests for and against disclosure. In this case both parties agree protection is in their best interests, however the presumption of the public's right to open access must also be considered. Martinelli v. District Court, 199 Colo. 163, 612 P.2d 1083 (Colo. 1980). The Agency's motion and proposed order lack sufficient information from which I may balance the interests of privacy and public access. Consequently the Agency's motion is DENIED.

The parties may re-apply for a protective order if the parties provide sufficient information from which it may be determined whether good cause exists for issuing a protective order, to wit: whose privacy or confidences are to be protected; what are the privacy interests sought to be protected; the nature of the documents which the parties seek to protect; and a proposal for the least restrictive means which satisfy privacy concerns while respecting the public's right to access public information, for example by replacing names with letters or some other form of redaction.


Bruce A. Plotkin
Career Service Hearing Officer

I hereby certify that on May 13, 2008, a correct copy of this Order was delivered to the following in the manner indicated:

Milo Gonser, Esq., mgonser@gonserassociates.com (via email);
Brent Nagen, Brentnagen@yahoo.com ,
brent.nagen@diadenver.net (via email);
Franklin A. Nachman, Assistant City Attorney,
diefiling.litigation@denvergov.org (via email).

