



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 19, 2011

Ms. Margo Ely
City Attorney
City of Naperville
400 South Eagle Street
P.O. Box 3020
Naperville, IL 60566-7020

RE: FOIA Pre-Authorization Request – 2011 PAC 13404

Dear Ms. Ely:

We have received and reviewed the written notice from the City of Naperville of its intention to deny disclosure of certain information pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010).

On November 14, 2010, [REDACTED] requested "Any/all documents/ contracts/payments/etc. related to the firm that is working with PD management – I believe his name is Robert Oberwise – Executive Partners." The City denied this request in part, providing [REDACTED] with a redacted version of a memorandum from Rob Oberwise to Doug Krieger and Bob Marshall dated June 11, 2010. The City asserted that the redacted portions were exempt from disclosure under section 7.5(q) of FOIA. 5 ILCS 140/7.5(q) (West 2009 Supp.). On February 15, 2011, [REDACTED] filed a Request for Review with this Office, seeking our review of the City's partial denial of his request. On March 21, 2011, we determined that the exemption in section 7.5(q) of FOIA did not properly apply to this document.

Based on the contents of the document, however, we informed the City that if it elected to assert that section 7(1)(f) exempted the redacted information from disclosure, it could submit a pre-authorization request pursuant to section 9.5(b) of FOIA. 5 ILCS 140/9.5(b) (West 2009 Supp.). In its notice dated April 4, 2011, the City notified this Office and [REDACTED] that it intends to assert that the redacted portions of this memorandum are exempt under section 7(1)(f).

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DETERMINATION

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions 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." 5 ILCS 140/7(1)(f) (West 2009 Supp.).

Based on our review of the un-redacted memorandum, we **approve** the City's redactions pursuant to section 7(1)(f). The redacted portions contain opinions, recommendations, and preliminary information provided to the City at the City's request, which the City used to formulate its actions. The City has confirmed that this memorandum does not represent the final agreement between the City and Mr. Oberwise and that the terms in the memorandum were changed before an agreement was reached. The City has asserted that this memorandum has not been publicly cited or identified by the Mayor. We conclude, therefore, that the City has sustained its initial burden of demonstrating that the redacted portions of this memorandum are exempt under section 7(1)(f).

Accordingly, the City may issue a partial denial letter directly to [REDACTED]. If you have any questions, you may contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,

[REDACTED]
SARAH KAPLAN
Assistant Attorney General
Public Access Bureau

cc:

[REDACTED]
cc: Ms. Pam LaFeber
City Clerk
City of Naperville
400 South Eagle Street
Naperville, IL 60540