



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 18, 2011

Via electronic mail

Mr. Joshua Jones
Freedom of Information Act Officer
Office of the Illinois Attorney General
500 S. Second Street
Springfield, Illinois 62706
jjones@atg.state.il.us

RE: FOIA Pre-Authorization Request - 2011 PAC 14066

Dear Mr. Jones:

We have received and reviewed the written notice from the Office of the Illinois Attorney General (OAG) 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). Specifically, on April 15, 2011, Mr. Marc Lane, on behalf of the Law Offices of Marc J. Lane, submitted a FOIA request to the OAG for copies of investigative reports concerning 12 companies. On May 10, 2011, the OAG submitted its written notice to this Office seeking to withhold a portion of the responsive records from disclosure pursuant to section 7(1)(f).

Section 7(1)(f) of FOIA exempts from inspection and copying "preliminary 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." 5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010. The OAG furnished to the Office of the Public Access Counselor 10 e-mails that it has identified as expressing preliminary recommendations that it seeks to withhold pursuant to section 7(1)(f).

DETERMINATION

The OAG's use of the exemption in section 7(1)(f) to the withhold the emails in question is **approved**. The section 7(1)(f) exemption is intended to encourage government

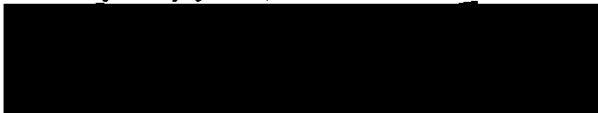
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officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. *Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (1st Dist. 2003). "[T]he deliberative process privilege protects pre-decisional, deliberative communications that are part of an agency's decision-making process." *Parmelee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill. October 1, 1998).

We have reviewed the emails furnished to us by the OAG and conclude that the OAG has met its initial burden of demonstrating that the emails consist of preliminary recommendations and express a proposed course of action with regard to certain OAG investigations. There also exists no evidence that the emails have been publicly cited or identified by the Attorney General. As a result, the OAG may withhold the emails pursuant to section 7(1)(f).

If you have any questions, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Very truly yours,



MATTHEW C. ROGINA
Assistant Attorney General
Public Access Bureau

cc: Mr. Marc J. Lane
The Law Offices of Marc J. Lane
180 N. LaSalle Street
Chicago, Illinois 60601