



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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ATTORNEY GENERAL

June 9, 2011

Mr. George Khoury, FOIA Officer
Illinois Department of Transportation
Division of Highways/Region 1/District 1
201 West Center Court
Schaumburg, IL 60196-1096

FOIA Pre-Authorization Request - 2011 PAC 14462

Dear Mr. Khoury:

We have received and reviewed the written notice from the Illinois Department of Transportation (Department) 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 May 11, 2011, Stuart M. Savitz submitted a FOIA request for various records regarding advertising display applications and permits. The Department seeks to withhold pending renewal applications for which no final decision has been made.

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 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 section 7(1)(f) exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (1st Dist. 2003). The exemption is "intended to protect the communications process and encourage frank and open discussion among agency employees before a final decision is made." *Harwood*, 344 Ill. App. 3d at 248.

DETERMINATION

The Department's use of the section 7(1)(f) exemption to withhold the records is **denied**. We have reviewed un-redacted copies of the pending renewal applications. No opinions or recommendations are expressed in the applications. Rather, the applications contain factual

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information provided by the applicant. Such information is not within the scope of the section 7(1)(f) exemption. Therefore, we conclude that the Department has not sustained its initial burden of demonstrating that the records are exempt from disclosure under section 7(1)(f).

Accordingly, the Department should disclose the records in question together with records responsive to other portions of the request, if it has not already done so.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,



STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

14462 preauth dl 7(1)(f) prelim draft sa

cc: Mr. Stuart Savitz
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