



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 13, 2011

Ms. Yvonne Decker
Deputy FOIA Officer
City of Highland Park
1707 St. Johns Ave.
Highland Park, IL 60035

RE: FOIA Pre-Authorization Request - 2011 PAC 13578

Dear Ms. Decker:

We have received and reviewed the written notice from the City of Highland Park 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 March 29, 2011, [REDACTED] submitted a FOIA request seeking all documents regarding: (1) calculations and projections of a change in City's renewal rate for 2005-2012 from any health insurance administrator; (2) the City's calculations and projections of the renewal rate for 2005-2012 from the Intergovernmental Personnel Benefit Cooperative; (3) the City's insurance budget for 2005-2012; and (4) all PAR's for [REDACTED] and [REDACTED]. The City claims that certain responsive records are exempt from disclosure under section 7(1)(f) because they contain opinions or relate to the formulation of policies or actions.

Section 7(1)(f) of FOIA allows withholding of:

[p]reliminary drafts, notes, recommendations, memoranda or other documents 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.

In *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), the Illinois Appellate Court ruled that "as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process." *Harwood*, 344 Ill.

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App. 3d at 247. In considering the matter, the *Harwood* court adopted the defendant's argument that the word "preliminary" does not refer to the "posture of the particular document sought to be disclosed" but rather to "predecisional intra-agency communications." *Harwood*, 344 Ill. App. 3d at 247-248. The court noted that no previous Illinois cases interpreted the use of the term "preliminary" and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect "predecisional, deliberative communications that are part of an agency's decision-making process." *Harwood*, 344 Ill. App. 3d at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998).

DETERMINATION

The City's use of the exemption in section 7(1)(f) to withhold the records at issue is **approved**. Based on our review, the records fall within the scope of the section 7(1)(f) exemption, because they consist of internal discussions which contain opinions and which pertain to the formulation of policies advocated by the City. Further, there is no evidence to suggest that these records have been publicly cited and identified by the head of the public body. Accordingly, the City has met its initial burden of demonstrating that these records are exempt from disclosure under section 7(1)(f).

If you have any questions, please contact me at (217) 782-9078. This correspondence shall serve to close this matter.

Very truly yours,


MATTHEW M. SEBEK
Assistant Attorney General
Public Access Bureau

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cc: 