



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 13, 2011

Mr. Tom Reuter
Acting FOIA Officer
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794

RE: FOIA Preauthorization – 2011 PAC 14389

Dear Mr. Reuter:

We have received and reviewed the written notice from the Illinois Environmental Protection Agency (IEPA) of its intention to deny disclosure of certain information requested by Ms. Colleen Bohlin at Gaia Tech 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 March 23, 2011, Ms. Bohlin requested records containing information on Advocate Health Care and Chicago Transit Authority properties. IEPA seeks to withhold under section 7(1)(f) one document that pertains to the status, cost, and estimated schedule at the Chicago Transit Authority site.

Section 7(1)(f) exempts from disclosure "[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." This provision "is the equivalent of the 'deliberative process' exemption set forth in section 552(b)(5) of the federal Freedom of Information Act." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1st Dist. 2003). The purpose of this exemption is to encourage honest and open discussions among government employees before decisions are reached. *Harwood*, 344 Ill. App. 3d at 248.

DETERMINATION

IEPA's use of the exemption in section 7(1)(f) to withhold the requested document is **approved**. We have determined that the withheld document contains preliminary

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assessments and recommendations that are subject to revision before being accepted. IEPA asserts that this document was not publicly cited or identified by IEPA's Director. Accordingly, IEPA has met its initial burden of demonstrating that the withheld document is exempt from disclosure under section 7(1)(f).

If you have any questions, please contact me at 312-814-2770. This correspondence will serve to close the matter.

Very truly yours,



JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

JS:ah

14389 pre-auth dl 7(1)(f) prelim draft sa

cc: Ms. Colleen Bohlin
Gaia Tech
135 South LaSalle Street, Ste 3500
Chicago, IL 60603