



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 12, 2011

Mr. Robert J. Grindle
Legal Fellow
Office of the Governor
100 West Randolph Street, Suite 16-100
Chicago, Illinois 60601

RE: FOIA Preauthorization – 2011 PAC 15216

Dear Mr. Grindle:

We have received and reviewed the written notice from the Office of the Governor of its intention to deny disclosure of certain information requested by Mr. Andrew Thomason pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(f) (West 2010). Specifically, Mr. Thomason requested records involving communications between the Governor's Office and the Illinois Department of Transportation (IDOT) from June 1, 2011, to June 13, 2011, regarding any capital project. The Governor's Office seeks to withhold some e-mails and accompanying documents under section 7(1)(f) and provided our office with copies of these records.

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 section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975); *Hoffman v. Ill. Dept. of Corrections*, 158 Ill. App. 3d 473 (1st Dist. 1987).

DETERMINATION


After reviewing the records provided to our office, we have concluded that the records consist largely of e-mail correspondence and draft documents – including a draft

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proposal for a preliminary feasibility study – in which the Governor's Office and IDOT staff express opinions about and formulate strategies for capital projects. Additionally, there is no evidence that these records have been publicly cited and identified by the Governor. Based on this analysis, the Governor's Office has met its initial burden under section 7(1)(f) to withhold the records in question.

If you have any questions, please contact me at 312-793-0865. This correspondence will serve to close this matter.

Very truly yours,


SARA GADOLA GALLAGHER
Assistant Attorney General
Public Access Bureau

15216 pre-auth al 7(1)(f) prelim draft gov

cc: Mr. Andrew Thomason
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