



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 6, 2011

Mr. Jamie Bowden
Village Administrator
Village of Channahon
24555 South Navajo Drive
Channahon, Illinois 60410

RE: FOIA Pre-authorization Request – 2011 PAC 15135

Dear Mr. Bowden:

We have received and reviewed the written notice from the Village of Channahon (Village) of its intention to deny certain information as exempt from disclosure under section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2010)). Mr. Martin Bourke, on behalf of the Village of Bloomingdale, submitted a FOIA request to the Village that included a request for any and all correspondence, including emails, between any public officer at the Village of Channahon and Inspired Development, LLC or any affiliated corporation. The Village seeks pre-authorization to withhold correspondence from Inspired Development, LLC regarding proposed retailers.

Inspired Development filed a complaint in Will County Circuit Court seeking a court order to enjoin the Village from providing the Public Access Counselor (PAC) or anyone else with the records in question. On April 6, 2011, the court dismissed the complaint and cancelled the next scheduled court date. The dismissal order stated that the "Court does not believe that the claims brought in this Complaint are properly ripe for adjudication." *Inspired Development, LLC v. City of Kankakee*, Docket No. 10-CH-5123 (Circuit Court, Will County). Nevertheless, the Village's request for pre-authorization indicates that the Village will not provide a copy of the documents in question for our review.

DETERMINATION

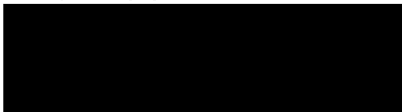
The Village's request for pre-authorization to use the exemption in section 7(1)(f) to withhold the records in question is **denied**. Under section 1.2 (5 ILCS 140/1.2 (West 2010)), the Village carries the burden of demonstrating by clear and convincing evidence that these records are exempt from disclosure pursuant to section 7(1)(f). Sections 9.5(b) and (c) of FOIA (5 ILCS 140/9.5(b), (c) (West 2010)) obligate the Village to provide the records in question for

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our review. The Village's refusal to provide copies of the records for our review precludes the Village from sustaining its initial burden of demonstrating that these records are exempt from disclosure under section 7(1)(f). With the issuance of this determination denying the Village's request to withhold records pursuant to section 7(1)(f), the time for the Village's response to Mr. Bourke's FOIA request is no longer tolled.

This letter does not constitute a binding opinion under section 9.5 of FOIA. If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,


SARAH KAPLAN
Assistant Attorney General
Public Access Bureau

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cc: Mr. Martin Bourke
Village Administrator
Village of Bloomingdale
201 South Bloomingdale Road
Bloomingdale, Illinois 60108