



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

May 12, 2010

Ms. Susan Matthews
FOIA Officer
Village of Villa Park
Via electronic mail
susanm@vppd.org

RE: FOIA Pre-approval Request – 2010 PAC 7224

Dear Ms. Matthews:

On May 5, 2010, we received from the Village of Villa Park a written notice of its intent assert the Section 7(1)(f) exemption in response to a Freedom of Information Act (FOIA) request dated May 3, 2010 from [REDACTED]. The request sought copies of notes and recommendations to the Village Manager from the police chief interview committee. The Village has indicated its intent to withhold those records as exempt under Section 7(1)(f).

Section 7(1)(f) of the Freedom of Information Act 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. 5 ILCS 140/7(1)(f).

Based on our review of this information, we have determined that it is appropriate for the Village to withhold under Section 7(1)(f) the records in question. The Illinois Appellate Court in *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), 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.” *Id.* 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.” *Id.* at 247-248. The court noted that no previous Illinois caselaw interpreted the use of the word 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.” *Id.* at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998).

The records at issue appear to fall within the scope of the exemption. Based on the information provided, it appears that the notes and recommendations the Village intends to withhold are predecisional and constitute part of the Village’s deliberative process in selecting a police chief candidate for hire. Finally, the Village has indicated that the records have not been publicly cited and identified by the head of the public body. As such, the records are exempt from disclosure under Section 7(1)(f).

If you have any questions, please feel free to contact me at (217) 785-7438. This letter shall serve to close this file.

Sincerely,

Cara Smith
Public Access Counselor

By:



Amanda M. Lundeen
Assistant Public Access Counselor

cc:

