



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 2, 2010

Sue Torres
FOIA Officer
Records Management
City of St. Charles
2 E. Main Street
St. Charles, Illinois 60174

Re: Pre-Authorization Request 2010 PAC 8050

Dear Ms. Torres:

We have received and reviewed the written notice from the City of St. Charles (City) of its intent to deny disclosure of certain information as exempt under Section 7(1)(f) of the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended (FOIA).

Thomas J. Cisar, of Cisar & Mrofka Ltd., submitted a FOIA request on May 14, 2010 seeking, in part, "[a]ll...emails...pertaining to all items on the agenda for the St. Charles Planning and Development Committee meeting on May 10, 2010." On May 26, 2010, Mr. Cisar amended his FOIA request regarding his request for emails to "...emails among (to or from) City Counsel (sic) members, Plan Commission members and Rita, the Director of Development."

In its written notice, the City asserts that certain portions of the responsive emails are exempt under Section 7(1)(f) of FOIA "...due to opinions expressed and actions and policies being formulated" in the emails. The City advises that the agenda item for the referenced meeting was a proposed development.

Section 7(1)(f) of FOIA exempts from disclosure records that constitute "[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 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).

Determination

The City's use of the deliberative process exemption in Section 7(1)(f) of FOIA to deny disclosure of specific information which relates solely to the scheduling of visits to a specified development and whether or not specific individuals will or did attend these site visits is denied.

This information is not considered pre-decisional in nature and does not constitute the formation of policy.

The City's use of the Section 7(1)(f) exemption to deny disclosure of all remaining information it seeks to redact is approved. We have reviewed the documents provided by the City and have determined that this remaining information consists of opinions and recommendations of City Council members in regards to the proposed development and in preparation for the May 10, 2010 Planning and Development Committee meeting. Thus, this information is considered exempt from disclosure under Section 7(1)(f) of FOIA.

Please note, we offer no opinion or advice as to whether the City's redaction of additional information "that, in [its] opinion, would not be considered a public record" was appropriate.

Accordingly, the City may issue a partial denial letter and release the requested documents with the appropriate information redacted.

If you have any questions, please feel free to contact me at (312) 814-1003. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: 

Jessica O'Leary
Assistant Attorney General

cc: Thomas J. Cisar
Cisar & Mrofka Ltd.
One MidAmerica Plaza, Suite 125
Oakbrook Terrance, Illinois 60181