



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

July 19, 2010

Ms. Claudia Manley  
Acting Freedom of Information Officer  
Illinois Department of Labor  
160 N. LaSalle St., Suite C-1300  
Chicago, IL 60601

Dear Ms. Manley:

RE: FOIA Pre-Approval Request – 2010 PAC 8350

We have received and reviewed the written notice from the Illinois Department of Labor of its intention to deny a request by attorney Thomas Brewer for copies of preliminary investigative findings in matters arising under the Employee Classification Act as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act. Mr. Brewer represents a client who has received preliminary findings from the Department following an investigation. The Department intends to provide other information requested by Mr. Brewer.

The Employee Classification Act became effective on January 1, 2008, and its purpose is to address the alleged practice in the construction industry of misclassifying workers as independent contractors in order to avoid tax and labor law obligations. 820 ILCS 185/1-999. As the Department has pointed out, preliminary investigative findings are sent to a contractor before the Department makes a final determination of a violation, and the contractor has a chance to present relevant written information for the Department to consider in making its determination. 56 Ill. Admin. Code § 240.300(d).


As a result of this review, we have determined that it is appropriate to decline to disclose the preliminary investigative findings under Section 7(1)(f) because they constitute preliminary drafts, notes, recommendations, and/or memoranda in which opinions are expressed or policies or actions are formulated. Therefore, the request to assert the exemption under Section 7(1)(f) is hereby approved and further inquiry into this matter is not warranted.

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

Sincerely,

Cara Smith  
Public Access Counselor

By:

  
John Schmidt  
Assistant Attorney General

cc: Mr. Thomas Brewer  
Brewer Law Office, LLC  
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