



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
22201 Illinois Route 9
P.O. Box 44
Tremont, IL 61568