



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 19, 2010

Wendellyn J. Briggs  
FOIA Officer  
Town of Normal  
100 E. Phoenix Ave.  
Normal, Illinois 61761-0589

RE: FOIA Pre-Authorization Request - 2010 PAC-8445

Dear Ms. Briggs:

We have reviewed the Town of Normal's pre-authorization request and associated documents concerning [REDACTED] Freedom of Information Act ("FOIA") request [REDACTED] submitted a FOIA request to the Town of Normal, requesting the following:

- (1) Copies of all sent or received emails, text messages or other communications between Town staff, administration or Council and Mayor related to the "University Cinemas" property from May 1, 2009 through today [June 15, 2010].
- (2) Copies of all emails, text messages or other communications, sent or received by Mayor Koos from April 1, 2009 through today [June 15, 2010].
- (3) Copies of all emails, text messages or other communications, sent or received by Mark Peterson from April 1, 2009 through today [June 15, 2010].

The Town of Normal and [REDACTED] agreed to narrow the scope of the request. The Town of Normal has submitted a pre-authorization request claiming that one set of documents are exempt from disclosure under Section 7(1)(f) of FOIA because this information contains preliminary drafts and memoranda regarding the development of the University Cinemas property. 5 ILCS 140/7(1)(f). The Town of Normal disclosed the remaining information (emails), but redacted the names of those who are not elected officials or work for a governmental agency, pursuant to Section 7(1)(c) of FOIA. 5 ILCS 140/7(1)(c).

This Office concludes that the use of Section 7(1)(f) is **approved** to withhold the first set of emails concerning the development of the University Cinemas property, but the use of Section 7(1)(c) to redact the individuals' names is **denied**.

Section 7(1)(f) exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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).

The emails concerning the development of the University Cinemas property falls within the confines of Section 7(1)(f). The emails include notes, recommendations, and preliminary memoranda regarding the development of this property. And these emails have not been identified by the Mayor. Thus, they are exempt from disclosure under Section 7(1)(f).

The second set of documents consists of emails where the names of individuals have been redacted. The Town of Normal claims that disclosure of these names (all of whom are neither elected officials nor work for governmental agencies) would result in a clearly unwarranted invasion of personal privacy.

Section 7(1)(c) of FOIA exempts from inspection and copying the following: "personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . . 'Unwarranted invasion of personal privacy' means the disclosure of information that is highly personal or objectionable to reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." 5 ILCS 140/7(1)(c).

Here, the Town of Normal has not satisfied its burden of establishing that the disclosure of the individuals' names in the emails would yield a clearly unwarranted invasion of personal privacy. The public has an interest in learning with whom its governmental officials are dealing with respect to matters of public business. While the redaction of the individuals' email addresses is proper under Section 7(1)(b) of FOIA, the names of the individuals, standing alone, are not exempt from disclosure.

If you have any questions or concerns, please feel free to contact me at (312) 814-5044. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith  
Public Access Counselor

By: 

Sunil Bhawe  
Assistant Attorney General

cc: 