



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 29, 2010

Simone M. Boutet
Assistant Village Attorney
Village of Oak Park
123 Madison St.
Oak Park, Illinois 60302-4272

RE: FOIA Pre-Authorization Request 2010 PAC-8583

Dear Ms. Boutet:

We have reviewed the Village of Oak Park's pre-authorization request and associated documents concerning [REDACTED] Freedom of Information Act ("FOIA") request. [REDACTED] has requested "copies of any/all e-mails, memos, and correspondence to and/or from John Wielebnicki, Vic Sabalauskas, Frank Spataro, Ray Heise, Tom Barwin, David Pope, Simone Boutet, and the Village Board regarding [REDACTED] from January 1, 2008 to July 2, 2010. The Village has sought pre-authorization to deny the request under Section 7(1)(f) of FOIA. 5 ILCS 140/7(1)(f).

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).

With respect to those records which [REDACTED] did not himself send or receive, this Office approves the use of Section 7(1)(f) to withhold the requested records. These records consist of preliminary drafts of emails, notes, and memoranda in which recommendations and opinions concerning [REDACTED] personnel issues are expressed, including possible personnel actions to be taken against [REDACTED]. Additionally, none of these records have been publicly cited or identified by the head of the Village.

With respect to the records that [REDACTED] himself sent or received, however, the Village's request to withhold is denied. The emails, memos, and correspondence sent to Mr. Aguayo by Village representatives are in final form and, thus, Section 7(1)(f) does not apply. Likewise, the emails, memos, and correspondence sent by [REDACTED] to Village representatives are not preliminary in nature and, thus, Section 7(1)(f) does not apply to these records, either.

Finally, three of the letters contained in the requested records are final documents. These letters consist of the following: (1) two letters from [REDACTED] union representative, Wayne M. Lindwall, to the Village's human resources director, Frank Spataro, dated May 19, 2009 and May 28, 2009, respectively; and (2) a letter from Mr. Spataro to Mr. Lindwall dated June 1, 2009. These letters are not preliminary in nature and, thus, the Village may not withhold these letters pursuant to Section 7(1)(f).

The Village also has asserted that the requested information is exempt from disclosure under the attorney/client privilege. Pre-approval by the Public Access Counselor is not required to assert that information is exempt under any provisions of FOIA other than Sections 7(1)(c) and 7(1)(f). Accordingly, this Office takes no position on the applicability of any other exceptions to the production of the requested information.

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

Sincerely,

Cara Smith
Public Access Counselor

By:

[REDACTED]

Sunil Bhawe
Assistant Attorney General

cc:

[REDACTED]