



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 23, 2011

Department of Labor
Yolanda Cervantes, FOIA Officer
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601-3150

Re: Pre-authorization request – 2011 PAC 12267

Dear Ms. Cervantes:

We have received from the Illinois Department of Labor a notice of intention to deny certain information requested by Christine des Garenes under the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et seq.*, as amended. Ms. des Garenes initially requested "copies of all documents related to any investigation, complaints, discipline or other resolution involving Gire Roofing of Villa Grove, IL." After the Department requested that Ms. des Garenes narrow her FOIA request, she requested a copy of file 2011-PW-EHO9-0223. The Department has requested pre-authorization to withhold an investigator's notes under Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)).

Section 7(1)(f) exempts from inspection and copying "[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 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." The Section 7(1)(f) exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1st Dist. 2003). The exemption is "intended to protect the communications process and encourage frank and open discussion among agency employees before a decision is made." *Id.* at 248, 799 N.E.2d at 864.

The request for pre-authorization to withhold the investigator's notes pursuant to Section 7(1)(f) is **approved**. We have reviewed copies of the notes, which contain opinions that the investigator used to formulate a final determination. Such records are pre-decisional in nature. In addition, there is no indication that the notes were cited by the head of the public body. Accordingly, we

conclude that Department has sustained its initial burden of demonstrating that these records are exempt from disclosure under Section 7(1)(f).

The Department has asserted that additional information is exempt from disclosure under Section 7(1)(d)(iv) (5 ILCS 140/7(1)(d)(iv)). Because prior approval by the Public Access Counselor is not required for the assertion of exemptions other than Section 7(1)(c) (5 ILCS 140/7(1)(c)) and Section 7(1)(f), we make no determination at this time regarding the applicability of any other exemptions.

This letter shall serve to close this file. If you have any questions, please feel free to contact me at 312-814-6756 or ssilverman@atg.state.il.us.

Sincerely,

A solid black rectangular box redacting the signature of Steve Silverman.

Steve Silverman
Assistant Public Access Counselor

cc: Christine des Garennes
The News Gazette
15 Main St.
Champaign, IL 61820