



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

August 26, 2010

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

Re: Pre-Authorization Request 2010 PAC 8180

Dear Ms. Boutet:

Thank you for providing the additional information we requested on July 8, 2010 in response to a written notice from the Village of Oak Park (Village) of its intention to deny certain records as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended (FOIA).

In a FOIA request submitted to the Village on June 21, 2010, Karl Sarpolis, Jr. sought the following information:

1. Copies of any/all e-mails, memos and correspondence to and or from Frank Spataro, Cedric Melton, Ray Heise, Thomas Barwin, Lisa Shelly and David Pope regarding Elizabeth Melara from Jan. 1st 2008 to present date.
2. Copies of any/all e-mails, memos and correspondence to and or from Frank Spataro, Teresa Powell, Ray Heise, Thomas Barwin, Karen Mureiello, Lisa Shelly and David Pope regarding Marijo Lopez from Jan. 1st 2008 to present date.

Pursuant to Section 9.5(b) of FOIA (5 ILCS 140/9.5(b)), we asked that the Village provide us with unredacted copies of the responsive documents which it intends to withhold from disclosure under Section 7(1)(f) of FOIA.

Section 7(1)(f) of FOIA exempts from disclosure records that constitute “[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 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).

Determination

We have reviewed the documents provided by the Village and have determined that they consist of memos and emails alleging disciplinary complaints, emails discussing drafts of disciplinary notices and performance evaluations, the drafts of the notices and evaluations, and a draft of a payroll change form. The Village asserts that “[t]o the extent that these management level individuals communicated be e-mail or other means ‘regarding’ either Elizabeth Melara or Marijo Lopez, those communications would have been preliminary discussions, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated with regard to those two employees” and are thus exempt under Section 7(1)(f) of FOIA.


The Village’s proposed use of the exemption found in Section 7(1)(f) of FOIA to deny disclosure of the responsive records is approved. The responsive emails contain the impressions, opinions, and recommendations of individuals which were used in the formulation of final decisions regarding disciplinary action and performance evaluations and are thus exempt from disclosure under Section 7(1)(f) of FOIA. In addition, the drafts of disciplinary notices, performance evaluations, and a payroll change form are considered preliminary drafts which are also exempt from disclosure under Section 7(1)(f) of FOIA.

Accordingly, the Village may issue a denial letter withholding the responsive records from disclosure.

If you have any questions, please feel free to contact me at (312) 814-1003. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: 
Jessica O’Leary
Assistant Attorney General

cc: Karl D. Sarpolis, Jr.
Business Representative
International Association of Machinists
and Aerospace Workers
16 W 361 S. Frontage Road, Suite 127
Burr Ridge, Illinois 60527