



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

Lisa Madigan
ATTORNEY GENERAL

July 12, 2010

Wendelilyn J. Briggs
City Clerk/ Freedom of Information Officer
Town of Normal
100 East Phoenix Avenue
P.O. Box 589
Normal, Illinois 61761-0589

RE: Pre-Authorization Request – 2010 PAC 8260

Dear Ms. Briggs:

We have received and reviewed the written notice from the Town of Normal ("Town") of its intention to deny certain information as exempt from disclosure under Section 7(1)(c) and Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*

On June 15, 2010, [REDACTED] submitted a FOIA request for:

- 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.
- 2) Copies of all emails, text messages or other communications, sent or received by Mayor Koos from April 1, 2009 through today.
- 3) Copies of all emails, text messages or other communications sent or received by Mark Peterson from April 1, 2009 through today.

In an email dated June 17, 2010, the Town requested [REDACTED] to narrow the scope of his request. In response, [REDACTED] submitted an amended FOIA request dated June 17, 2010, limiting the second and third parts of his request to emails and electronic communications involving:

- (1) committee appointments (or potential committee appointments) for any standing or ad-hoc committees; (2) budget matters or discussions (especially any communications involving any staff from the finance department); (3) Cornbelters, Normal Professional Baseball or Heartland Community College; (4) Uptown Redevelopment (including, but not limited to, Uptown 1/One Main and the Multi-Modal Center); (5) April 2009 municipal elections/campaigns; (6) communications involving or related to the local press/media (WJBC, Pantagraph, etc); (7) property acquisition; and (8) communications involving or related to town vendors (i.e., Trace Design) and/or the EDC.

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In its written notice, the Town asserts that certain emails contained within the requested records have been withheld from disclosure under Section 7(1)(f) of FOIA. The Town is also seeking to redact the names of individuals contained in the requested emails, who are not elected officials or work for a governmental agency, as exempt from disclosure under Section 7(1)(c) of FOIA.

Determinations

Section 7(1)(f) of FOIA 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.” 5 ILCS 140/7(1)(f).

Section 7(1)(c) of FOIA exempts from inspection and copying “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 ILCS 140/7(1)(c). The exemption defines “unwarranted invasion of personal privacy” as “the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” *Id.*

The Town’s use of the Section 7(1)(f) exemption with regard to the withheld emails is approved. We have determined that the withheld emails are preliminary documents in which opinions and recommendations were expressed and which were relied upon by the Town in formulating actions or policies on various matters. Therefore, the Town has met its burden of demonstrating that the withheld emails are exempt from disclosure under Section 7(1)(f) of FOIA.

Next, the Town’s use of Section 7(1)(c) exemption with regard to names of the individuals who are not elected officials or work for a governmental agency is denied. We have determined that the mere fact that names of individuals, who are not elected officials or do not work for a governmental agency, are contained within the requested records does not amount to a clearly unwarranted invasion of personal privacy. Accordingly, the Town has failed to demonstrate that the names of these individuals are exempt from disclosure under Section 7(1)(c) of FOIA.

Further, to the extent that the reports include personal information such as home addresses, personal email addresses and phone numbers, such information constitutes “private information” as defined in Section 2(c-5), which the Town may be redacted pursuant to Section 7(1)(b) without seeking pre-authorization from the Public Access Counselor. Please note, however, that this letter does not express an opinion or provide advice as to the applicability of any other non-7(1)(c) exemptions to these specific records.

Accordingly, the Town may issue a partial denial letter directly to [REDACTED] and may release the records to him with the appropriate information redacted.

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If you have any questions, please feel free to contact me at (312) 814-6437. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Tola Adewola
Assistant Public Access Counselor

cc:

