



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2011

Ms. Michelle Masoncup
Assistant City Attorney
City of Evanston
mmasoncup@cityofevanston.org

RE: Pre-Authorization Request – 2010 PAC 11412

Dear Ms. Masoncup:

We have reviewed the written notice from the City of Evanston (City) of its intention to deny disclosure of certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA): 5 ILCS 140/7(1)(f).

On December 2, 2010, Gerald Callaghan, an attorney with Freeborn & Peters, submitted a FOIA request to the City seeking certain documents relating to ordinances and resolutions in the City.

In its December 16, 2010 Notice of Intent to Deny, the City asserted that certain responsive information is exempt from disclosure pursuant to Section 7(1)(f) of FOIA, which exempts from inspection and copying “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed or policies or actions 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.” This Office initiated further inquiry into the matter on January 12, 2011 and requested the City supply us with a copy of the documents that it claims is exempt together with a detailed factual analysis with regard to the basis of the Section 7(1)(f) exemption. The City fully complied with our further inquiry letter on February 14, 2011.

Determination

The City’s request for approval of its decision to withhold the information pursuant to Section 7(1)(f) is approved. The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (1st Dist. 1987).

This Office has reviewed the records that the City supplied to us and we have determined that they clearly consist of preliminary memoranda that contain opinions and recommendations about a proposed zoning overlay.

Additionally, there is no evidence that these documents have been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).

Accordingly, we find that the City has met its initial burden under Section 7(1)(f) and may withhold the documents.

If you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

A large black rectangular redaction box covers the signature area.

Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Gerald P. Callaghan
Freeborn & Peters, LLP
311 S. Wacker Drive
Chicago, Illinois 60606

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