



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2011

Mr. Conrad Rubinkowski
Illinois Commerce Commission
crubinko@icc.illinois.gov

RE: Pre-Authorization Request - 2011 PAC 13125

Dear Mr. Rubinkowski:

We have reviewed the written notice from the Illinois Commerce Commission 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 February 4, 2011, Mr. Robert DeWitte, on behalf of the law firm Krislov and Associates, submitted a FOIA request to the Commission seeking documents concerning Administrative Code section 735.160.

In its March 23, 2011 Notice of Intent to Deny, the Commission asserted that a April 7, 2008 memorandum 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." The Commission supplied this Office with a copy of the memorandum that it seeks to exempt under Section 7(1)(f) on April 4, 2011.

Determination

The Commission's request for approval of its decision to withhold the memorandum 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 memorandum that the Commission seeks to withhold and we have concluded that they consist of opinions and recommendations about a particular proposed course of action with regard to 83 Ill. Adm. Code 735.160(a).

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

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

If you have any questions, please feel free to contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Robert DeWitte
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