



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 4, 2011

Bradley Mitchell, FOIA Officer
City of Crystal Lake
100 West Woodstock Street
Crystal Lake, IL 60014

Re: Pre-authorization request – 2011 PAC 13165

Dear Mr. Mitchell:

We have received from the City of Crystal Lake a notice of intention to deny disclosure of certain information requested by Nicholas Bonifas under the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. Mr. Bonifas requested various records of communications regarding fire alarm systems and security systems. In 2010 PAC 11384, we determined that the City failed to sustain its burden of demonstrating that one email message in a chain of email messages is exempt from disclosure under Section 7(1)(m) of FOIA (5 ILCS 140/7(1)(m)). The City has now requested pre-authorization to withhold that email message under Section 7(1)(f) (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.” 5 ILCS 140/7(1)(f). 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 email message pursuant to Section 7(1)(f) is **approved**. The email message contains an attorney’s recommendation to several individuals, including the City’s deputy fire chief. The City has asserted that the attorney represented the City in a legal matter, and that the opinion expressed in the email message was used by the City to formulate action and policy. Such a record is pre-decisional in nature. In addition, there is no indication that the email message was cited by the head of the public body. Accordingly, we conclude that City has sustained its initial burden of demonstrating that this record is exempt from disclosure under Section 7(1)(f).

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,



Steve Silverman
Assistant Public Access Counselor

cc: Nicholas Bonifas
Alarm Detection Systems, Inc.
1111 Church Road
Aurora, IL 60505