



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

Lisa Madigan
ATTORNEY GENERAL

September 29, 2010

Sam Hudzik
Political Reporter
Chicago Public Radio
Navy Pier
848 E Grand Avenue
Chicago, IL 60611-3509

Lola Dada-Olley
FOIA Officer
Office of the Governor Pat Quinn
100 W. Randolph Street, Ste. 16-100
Chicago, IL 60601

Re: Pre-authorization request – 2010 PAC 6142

Dear Mr. Hudzik and Ms. Dada-Olley,

We have received and reviewed the notice of intention to deny disclosure submitted by the Governor's Office in response to Sam Hudzik's request for public records under the Freedom of Information Act. 5 ILCS 140/1 *et seq.* Mr. Hudzik requested copies of all communications since August 2009 which mention or regard Burr Oak Cemetery. The Governor's Office proposed redacting certain portions of e-mails and withholding a document titled "Envisioned Final Bill" pursuant to Section 7(1)(f).

Determination

The proposed use of the exemption in Section 7(1)(f) by the Governor's Office is *approved*. Section 7(1)(f) exempts from disclosure "[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." Section 7(1)(f) covers "predecisional materials used by a public body in its deliberative process." *Harwood v.*

McDonough, 344 Ill. App. 3d 242, 247, 799 N.E.2d 859, 864 (1st Dist. 2003). The exemption is consistent with the deliberative process exemption in the federal Freedom of Information Act, which “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.

We have reviewed un-redacted copies of the records in question and have determined that the proposed redactions relate to proposals for drafting legislation and possible strategies for garnering support for the proposed legislation. Those passages are preliminary recommendations in which opinions are expressed or policies are formulated, for purposes of Section 7(1)(f) of FOIA. Likewise, the “Envisioned Final Bill” constitutes preliminary recommendations in the form of a detailed proposal for revising the proposed Illinois Cemetery Oversight Act. The Governor’s Office asserts that those records have not been publicly cited and identified.

The Governor’s Office has met its initial burden of establishing that the redacted portions of the e-mails and the “Envisioned Final Bill” are exempt from disclosure under Section 7(1)(f). The Governor’s Office may issue a partial denial letter to Mr. Hudzik and release the e-mails with the approved redactions. The “Envisioned Final Bill” may be withheld in its entirety.

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,

Cara Smith
Public Access Counselor



By:
Steve Silverman
Assistant Public Access Counselor

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