



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

Lisa Madigan
ATTORNEY GENERAL

October 19, 2010

Mr. Curt Clemons-Mosby
FOIA Officer
Governor's Office of Management and Budget
Via e-mail to:
Curt.ClemonsMosby@Illinois.gov

RE: Pre-Authorization Request – 2010 PAC 10062

Dear Mr. Clemons-Mosby:

We have received and reviewed the written notice from the Governor's Office of Management and Budget (GOMB) of its intention to deny disclosure of certain portions of one document responsive to a Freedom of Information Act (FOIA) request made by [REDACTED] exempt from disclosure under Section 7(1)(f) of FOIA. 5 ILCS 140/7(1)(f). [REDACTED] documentation relating to an Incident Report that [REDACTED]

[REDACTED] its written notice, GOMB asserts that portions of one document contained within the requested records have been redacted under Section 7(1)(f) of FOIA.

Determination

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 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."

In *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), the Illinois Appellate Court ruled that "as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process." *Id.* at 247. In considering the matter, the *Harwood* court adopted the defendant's argument that the word "preliminary" does not refer to the "posture of the particular document sought to be disclosed" but rather to "predecisional intra-agency communications." *Id.* at 247-248. The court noted that no previous Illinois cases interpreted the use of the word preliminary and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect "predecisional, deliberative communications

that are part of an agency's decision-making process." *Id.* at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998)).

GOMB's use of the Section 7(1)(f) exemption with regard to the redacted document is **approved**. Our office has determined that the redacted portions of this document relate to the formulation of action by GOMB. Further, there is no evidence to suggest that this document has been publicly cited by the head of GOMB. Accordingly, GOMB has met its initial burden of demonstrating that the withheld documents are exempt from disclosure under Section 7(1)(f) of FOIA.

If you have any questions or concerns, please feel free to contact the undersigned at (217) 782-9078. This correspondence shall serve to close this matter.

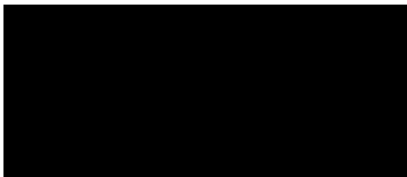
Sincerely,

Cara Smith
Public Access Counselor



By: Matthew M. Sebek
Assistant Public Access Counselor

cc:



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