



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 25, 2011

Cathy Haley
FOIA Officer
Village of Riverside
by email: chaley@riverside.il.us

RE: Pre-Authorization Request – 2011 PAC 13389
Requester: Christopher McElgunn, of the John Marshall Law School Veterans Legal Support Center and Clinic, on behalf of [REDACTED]

Dear Ms. Haley:

We have received and reviewed the written notice from the Village of Riverside 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).

Mr. Christopher McElgunn of the John Marshall Law School Veterans Legal Support Center and Clinic, on behalf of [REDACTED] submitted a FOIA request dated April 4, 2011 seeking "any and all documents pertaining to [REDACTED] application for employment with the Village of Riverside Police Department. Such documents include, but are not limited to: personnel files, background investigation records, internal affairs files, fitness evaluations, complaint reports, disciplinary reports, and inquiries obtained from other police agencies." In its notice, the Village asserts that all of the responsive documents in its possession are exempt under Section 7(1)(f).

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 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." 5 ILCS 140/7(1)(f).

Determination

Based on our review of the documents the Village proposed to withhold, we have determined that the Village's request to withhold documents under Section 7(1)(f) is **approved in part and denied in part**. The Village may withhold only the following documents under 7(1)(f): an inter-office memorandum dated August 25, 2003; a facsimile time-stamped 6/29/00 9:34; and pages of

hand-written notes. The Village may also redact hand-written notes made by the Village on any of the responsive documents. These documents and notes are records of the Village's decision-making process, and they contain opinions and recommendations. The Village has asserted that none of these documents have been publicly cited or identified by the Village President. Accordingly, the Village has sustained its initial burden of showing that the documents described in this paragraph and the Village's handwritten notes are exempt under Section 7(1)(f).

The Village's request to assert the exemption in Section 7(1)(f) with respect to the other documents is **denied**. These documents include copies of official policies, certificates, reports of [REDACTED] grades, requests for employment and educational information, forms signed by [REDACTED] authorizing release of information, and information provided to the Village by [REDACTED]. These types of documents are not preliminary drafts, do not contain opinions or recommendations, and are not records of the Village's deliberative process. The fact that the Village considered these documents during its decision-making process does not cause them to become exempt from disclosure under Section 7(1)(f).

If State or federal law or a State or federal rule or regulation prohibits disclosure of any of these documents, the Village may assert that such documents are exempt under Section 7(1)(a) of FOIA. 5 ILCS 140/7(1)(a). The use of that exemption does not require pre-approval from our Office.

The Village shall issue a partial denial letter directly to Mr. McElgunn and release the non-exempt documents and portions of documents to him. If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Sincerely,

[REDACTED]

Sarah Kaplan
Assistant Public Access Counselor

cc: Christopher McElgunn
The John Marshall Law School
Veterans Legal Support Center & Clinic
315 South Plymouth Court
Chicago, IL 60604

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