



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

May 6, 2011

Elaine Autwell, FOIA Officer  
City of Evanston  
2100 Ridge Avenue  
Evanston, IL 60201

RE: FOIA Pre-Authorization Request – 2011 PAC 13889

Dear Ms. Autwell:

We have received and reviewed the written notice from the City of Evanston of its intention to deny certain information as exempt from disclosure under section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). Specifically, on April 7, 2011 Freeborn & Peters, LLP submitted a FOIA request to the City for records related to a proposal for a planned unit development at 1613 Church Street. The City is seeking to withhold portions of those records, which the City characterizes as pre-decisional and deliberative material.

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) (West 2009 Supp.) 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.

**DETERMINATION**

The City’s use of the exemption in section 7(1)(f) to withhold the records in question is **approved**. We have reviewed copies of the records, which contain City officials’ notes, opinions and recommendations regarding the proposal for the planned unit development. Those records are pre-decisional in nature. In addition, the City has asserted that the records have not been publicly cited by the head of the public body. Accordingly, we conclude that City has sustained its initial burden of demonstrating that these records are exempt from disclosure under section 7(1)(f).

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If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,



STEVE SILVERMAN  
Assistant Attorney General  
Public Access Bureau

cc: Freeborn & Peters, LLP  
311 S. Wacker Drive, Ste. 3000  
Chicago, IL 60606