OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 8, 2010

Ms. Simone Boutet
Assistant Village Attorney
Village of Oak Park
123 Madison Street
Oak Park, Illinois 60302
Boutet@oak-park.us

RE: FOIA Pre-Authorization Request – 2010 PAC 10441

Dear Ms. Boutet:
We have received and reviewed the written notice from the Village of Oak Park (Village) of its intention to withhold certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

Specifically, on October 19, 2010, Martin Stempniak, on behalf of the *Wednesday Journal*, submitted a FOIA request to the Village seeking all reports relating to the Interstate 290 expansion prepared for the Village by Nossaman LLP (Nossaman). On October 26, 2010, the Village sought our Office's approval to withhold several documents submitted to the Village by Nossaman pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)), which exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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."

Determinations

The Village's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved.

The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears, 421 U.S.* 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (1st Dist. 1987). In appropriate circumstances, Section 7(1)(f) may exempt from disclosure documents produced by outside consulting firms hired to advise public bodies on a particular course of action. *Harwood v. McDonough*, 344 Ill.App.3d 242, 248 (1st Dist. 2003).

Our Office has reviewed the documents supplied to us by the Village and we have concluded that the documents contain preliminary recommendations about the proposed project and properly fall within the scope of Section 7(1)(f).

Additionally, there is no evidence that this information has been publicly cited and identified by the head of the public body. 5 ILCS 140/7(1)(f).

Based on this analysis, the Village has met its initial burden under Section 7(1)(f) and may withhold the documents in question.

Should you have any questions or concerns, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: [redacted]

Matthew C. Rogina
Assistant Public Access Counselor
10441 pre-auth al 7(1)(f) prelim draft mun

cc: Marty Stempniak
Wednesday Journal
141 S. Oak Park Avenue
Oak Park, Illinois 60302