



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 13, 2011

Via electronic mail

Mr. Todd E. Rent
Human Relations/Compliance Officer
City of Urbana
400 South Vine Street
Urbana, Illinois 61801
terent@city.urbana.il.us

RE: FOIA Pre-Authorization Request - 2011 PAC 14028

Dear Mr. Rent:

We have received and reviewed the written notice from the City of Urbana (City) of its intention to deny disclosure of certain information pursuant to 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 28, 2011, Mr. Durl Kruse submitted a FOIA request to the City for a copy of "the preliminary draft report prepared by the statistician hired by the city to interpret the UPD's IDOT traffic data." The City seeks to withhold the report and responsive emails sent and received by City representatives about the report.

Section 7(1)(f) of FOIA exempts from inspection and copying "preliminary 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.), as amended by Public Act 96-1378, effective July 29, 2010.

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DETERMINATION

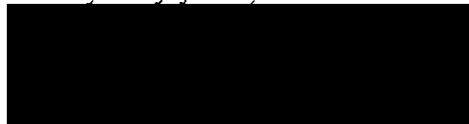
The City's use of the exemption in section 7(1)(f) to withhold the report and emails is **approved**. The section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. *Harwood v. McDonough*, 344 Ill. App. 3d 242, 248 (1st Dist. 2003). "[T]he deliberative process privilege protects pre-decisional, deliberative communications that are part of an agency's decision-making process." *Parmelee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill. October 1, 1998).

We have reviewed the report and emails furnished to this Office from the City together with the City's supplemental analysis of the section 7(1)(f) exemption. We conclude that the report is preliminary in nature and subject to revision. With regard to the emails, this Office concludes that the emails consist of opinions and recommendations by City representatives about the report. As a result, both the report and the emails fall within the scope of section 7(1)(f) and may be withheld by the City.

There also exists no evidence that the report or the emails have been publicly cited or identified by the head of the City. The City should, however, disclose a final copy of the report to Mr. Kruse upon its completion.

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

Very truly yours,



MATTHEW C. ROGINA
Assistant Attorney General
Public Access Bureau

cc: Mr. Durl Kruse
2007 S. George Huff Drive
Urbana, Illinois 61801