



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 12, 2011

Via electronic mail
Ms. Jeanne Hoch
Village of Oswego
100 Parkers Mill
Oswego, Illinois 60543
jhoch@oswegoil.org

RE: FOIA Pre-Authorization Request - 2010 PAC 8270

Dear Ms. Hoch:

We have received and reviewed the written notice from the Village of Oswego (Village) of its intention to deny disclosure of certain information as 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). On June 22, 2010, Mr. Joel Ebert, formerly of the Better Government Association (BGA), submitted a FOIA request to the Village for records relating to a proposed Metra stop. The Village asserts that certain relevant correspondence is exempt from disclosure.

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. This Office initiated further inquiry of this matter on July 12, 2010, and the Village supplied us with approximately 30 documents that it seeks to withhold pursuant to section 7(1)(f).

DETERMINATION

The Village's use of the exemption in section 7(1)(f) to withhold certain correspondence with regard to the proposed Metra stop is **approved** in part and **denied** in part. 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

Ms. Jeanne Hoch
May 12, 2011
Page 2

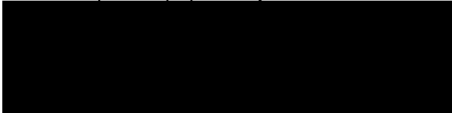
privilege protects pre-decisional, deliberative communications that are part of an agency's decision-making process." *Parmelee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill. October 1, 1998).

We have reviewed the documents furnished to us by the Village and conclude that the Village has met its initial burden of demonstrating that the correspondence received and sent by the Village's representatives generally contains opinions and recommendations regarding the course of action for a proposed Metra station and, therefore, may be withheld pursuant to section 7(1)(f).¹

With regard to a February 26, 2010, letter sent to the Village from a property management company concerning a purchase agreement, however, we conclude that this letter expresses a final determination on the part of the company and cannot be characterized as part of the Village's pre-decisional communications. As such, the Village must disclose this letter to the BGA.

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

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8270 pre-auth at 7(1)(f) prelim mun

¹This would include various e-mails sent and received by Village representatives between January 7 and March 10, 2010, and two letters from the Village's attorney to Village officials.