



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 2, 2010

Brigett R. Bevan
FOIA Officer
Chicago Transit Authority
567 W. Lake St.
Chicago, IL 60661

Re: Pre-authorization request – 2010 PAC 10818

Dear Ms. Bevan:

We have received from the Chicago Transit Authority (CTA) a notice of intention to partially deny records in response to Patrick Rehkamp's request for information under the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. Mr. Rehkamp requested copies of "emails, memos or any other interoffice correspondence" regarding repairs to 10 stations on CTA's Brown Line. CTA requested pre-approval to withhold records and redact information from records pursuant to Section 7(1)(f) (5 ILCS 140/7(1)(f)).

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).

CTA's request for pre-approval to withhold records and redact information from records pursuant to Section 7(1)(f) is **approved in part and denied in part**. We have reviewed unredacted copies of the records. An October 14, 2010 email message written by a CTA risk compliance manager states that crews have been "proactively assigned" to inspect and replace defective planks and to conduct monthly inspections at Brown Line stations. The message also states that as a result of those decisions, creating work orders related to defective planks is unnecessary. The message recites a final decision as to action for repairing Brown Line stations and therefore is not preliminary in nature. Accordingly, that message is not exempt from disclosure under Section 7(1)(f).

Based on our review and CTA's assertions, we have determined that the remaining records in question are preliminary in nature and contain drafts, notes, opinions and recommendations upon which CTA relied in its decision-making process regarding repairs to Brown Line stations and issuing a response to Mr. Rehkamp's FOIA request for information related to those repairs. Furthermore, CTA has asserted that none of the records have been publicly cited by the head of CTA. Accordingly, we conclude that CTA has sustained its initial burden of demonstrating that those records are exempt from disclosure under Section 7(1)(f).

CTA also intends to redact additional information from the records requested by Mr. Rehkamp pursuant to Section 7(1)(b) (5 ILCS 140/7(1)(b)). Our office has not analyzed the use of that exemption; assertion of that exemption does not require pre-approval from the Public Access Counselor.

This letter shall serve to close this file. If you have any questions, please feel free to contact me at 312-814-6756 or ssilverman@atg.state.il.us.

Sincerely,

Cara Smith
Public Access Counselor

By:

A large black rectangular redaction box covering the signature of the Assistant Public Access Counselor.

Assistant Public Access Counselor

cc: Peter Rehkamp
Via email: prehkamp@bettergov.org