



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 12, 2011

Illinois Attorney General's Office
John Costello, FOIA Officer
500 South Second Street
Springfield, IL 62706-1705

Re: Pre-authorization request – 2010 PAC 11680

Dear Mr. Costello:

We have reviewed a request by the Office of the Attorney General (OAG) for pre-authorization to withhold records requested by Robert Kirchner under the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et seq.*, as amended. Mr. Kirchner requested all communications between Assistant Public Access Counselor Matthew Rogina and the Champaign County State's Attorney's Office which are related to FOIA requests noted in the Public Access Counselor's (PAC) determination in 2010 PAC 10832. OAG requested pre-authorization to withhold those communications 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). The Section 7(1)(f) exemption applies to "predecisional materials used by a public body in its deliberative process." *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 request for pre-authorization to withhold the records pursuant to Section 7(1)(f) is **approved**. We have reviewed copies of the communications, which consist of email messages between Mr. Rogina and the State's Attorney's Office. Those communications are predecisional in nature and contain opinions which PAC considered in making a final determination in 2010 PAC 10832. There is no indication that the records were publicly cited and identified by the head of the public body. Accordingly, we conclude that OAG has sustained its burden of demonstrating that the records are exempt from disclosure under Section 7(1)(f).

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:



Steve Silverman
Assistant Public Access Counselor

cc: Atty. Robert Kirchner
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