

**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

February 1, 2011

Ms. Karen Coppa
City of Chicago Department of Law
Karen.coppa@cityofchicago.org

RE: FOIA Pre-Authorization Request - 2010 PAC 9996

Dear Ms. Coppa:

We have received and reviewed the written notice from the City of Chicago Department of Law 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 September 20, 2010, Fran Spielman, on behalf of the *Chicago Sun-Times*, submitted a FOIA request to the City seeking a copy of the consultant's report on municipal marketing prepared by Octagon, Inc.

On October 5, 2010, the City submitted a "Form For Pre-Approval of Use of Exemption Section 7(1)(c) and Section 7(1)(f)" and sought our Office's approval to withhold the consultant's report pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(f)(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." This Office initiated further inquiry into this matter on October 14, 2010. The City supplied us with a copy of the report on January 31, 2011.

Determinations

The City's request for approval of its decision to withhold the consultant's report pursuant to Section 7(1)(f) is approved. In its Form for Pre-Approval, the City indicates that it relied upon the findings of this report in order to determine how to implement certain marketing opportunities.

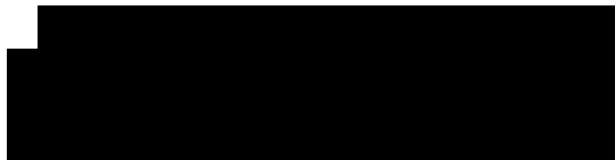
The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (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 report supplied to us by the City and we have concluded that the documents contain preliminary recommendations and opinions that the City presently is relying upon in determining how to implement certain marketing opportunities. Accordingly, the consultant's report properly falls within the scope of Section 7(1)(f) and *Harwood*.

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 City has met its initial burden under Section 7(1)(f) and may withhold the report.

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

Sincerely,

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates.

Matthew C. Rogina
Assistant Public Access Counselor

cc: Fran Spielman
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Jennifer Hoyle
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