



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 7, 2011

Mr. Robert J. Grindle
Legal Fellow
Office of the Governor
100 W. Randolph
Suite 16-100
Chicago, IL 60601

Re: Pre-Authorization Request – 2011 PAC 12325
FOIA Requester: Mr. John O'Connor – Associated Press

Dear Mr. Grindle:

We have received and reviewed the written notice from the Office of the Governor (Governor's Office) of its intention to deny disclosure of certain information pursuant to Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended.

On January 29, 2009, Mr. John O'Connor, a reporter with the Associated Press (AP), submitted a FOIA request to the Governor's Office for the following information:

[C]opies of all memorandums, e-mails, or other correspondence or communications, electronic or otherwise, from Jan. 1, 2008, to the present, to or from Gov. Blagojevich, his chief of staff, deputy governors, legal counsel, deputy chiefs of staff, directors or deputy directors with:

- John Filan, his immediate predecessor, Beverly Womack, Kara Nystrom- Boulahanis, Christopher B. Meister, J. Stuart Boldry Jr., Rich Frampton, Jim Senica, Sharnell Curtis Martin, Steve Trout, Nona Myers, Kristen Conrad, Townsend Albright, William A. Brandt Jr., Michael W. Goetz, William Barclay, Ronald E. DeNard, James J. Fuentes, Roger D. Herrin, Terrence M. O'Brein, Juan B. Rivera, April D. Verrett, or Bradley A. Zeller of the Illinois Finance Authority.
- Sam Zell, Nils Larsen, Dennis J. Fitzsimmons, Randy Michaels, Jerry L. Kersting, Donald J. Liebentrin, Lee Abrams, Harry A. Amsden, Chandler Bigelow III, Steve Gable, Paul Mitnick, Gary Weitman, Michael G. Bourgon, Thomas G. Caputo, David P.

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Eldersveld, Chris Hochschild, Daniel G. Karzan, Brian F. Litman, Jack Rodden, Naomi B. Sachs, Patrick M. Shanahan, Shaun Sheehan, Howard G. Weinstein, Jeffrey S. Berg, Brian L. Grenspun, Betsy D. Holden, William G. Osborn, William C. Pate, Mark Shapiro, Maggie Wilderotter, Frank Wood or Tony Hunter of The Tribune Co. or the Chicago Tribune.

- Crane Kenney, Gerald A. Spector, John F. McDonough, James J. Hendry, Mark E. McGuire, Michael R. Lufrano, Oneri Fleita, David P. Eldersveld, Harry A. Amsden, Chandler Bigelow III, Brian F. Litman, John F. Poelking, Jack Rodden, Patrick M. Shanahan, or Jodi L. Reischl of the Chicago National League Ball Club, Inc.
- Andrew L. Stern, Tom Balanoff, Chris Anderson, Rod Bashir, Jose Bernal, Charles Bridgemon, Nancy Cross, Aleksandra B. Figus, Laura Garza, Vince Pesha, or Dan Schlademan of the Service Employees International Union.
- Chris Chafe, Anna Burger, Edgar Romney, Joseph Hansen, James P. Hoffa, GERALYN LUTTY, Douglas J. McCarron, Terence M. O'Sullivan, Bruce Raynor, Arturo S. Rodriguez, or Andrew L. Stern.
- Brian McPartlin, Jeffrey Dailey, Dawn Catuara, Thomas Bamonte, Albert Murillo, Michael Colsch, Jeff Redding, Capt. John Jesernik, Stan Rynlewski, Mike King, Tracey E. Smith, Paul Kovacs, Tracy Smith, Ted Young, Thomas Canham, Steven Harris, James M. Roof, David R. Andalicio, Carl Towns, John Mitola, George Pradel, Betty-Ann Moore, James J. Banks of the Illinois State Toll Highway Authority.
- Patrick S. Magoon, John Manley, Robert S. Murley, Paula M. Noble, J. Christopher Reyes, Donna S. Wetzler, or Peter S. Willmott of Children's Memorial Hospital.
- James L. Madara, David S. Hefner, Larry A. Callahan, Jeffrey A. Finesilver, Mayumi Fukui, Lawrence J. Furnstahl, Benjamin Gibson, D. Allan Gray, David Ho, Vickie L. Humphrey, Michael J. Koetting, Jamie M. O'Malley, Michel M. Schiele, Jane T. Schumaker, Kenneth J. Sharigian, Susan S. Sher, Kelly M. Sullivan, Mark A. Urquhart, Eric E. Whitaker, Carolyn S. Wilson, Eric B. Yablonka, Valerie B. Jarrett, Paul F. Anderson, Robert H. Bergman, Edward C. Blair Jr., Ellen Block, Deborah A. Bricker, Kevin J. Brown, John Bucksbaum, Frank M. Clark, Stephanie Comer, James S. Crown, Robert G. Weiss or Craig J. Duchossois of the University of Chicago Medical Center or Weiss Memorial Hospital.

In its written notice, the Governor's Office asserts that fourteen (14) documents contained within the requested records are documents in which policies were formulated and have been withheld from disclosure under Section 7(1)(f) of FOIA.

Determination

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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."

The Governor's Office's use of the Section 7(1)(f) exemption with regard to twelve (12) of the withheld documents is **approved**. After review, our office has determined that these documents are ones in which policies were formulated and which contain opinions. Further, the Governor's Office has indicated that these documents have not been publicly cited by the Governor. Accordingly, the Governor's Office has met its initial burden of demonstrating that the withheld documents are exempt from disclosure under Section 7(1)(f) of FOIA.

With respect to the one-page e-mail located on page 42 of the documents labeled "Marked PDF 6 Batch 3" provided to this office, the Governor's Office's use of the exemption in Section 7(1)(f) is **denied in part and approved in part**. This e-mail contains a resume regarding a potential candidate for State employment. The State ultimately hired this candidate for the position for which he was under consideration. Under FOIA, public bodies must release resumes of candidates who were ultimately hired by the public body. Therefore, the Governor's Office has not met its initial burden of demonstrating that the withheld document is exempt from disclosure under Section 7(1)(f) of FOIA. However, the Governor's Office's use of the 7(1)(f) exemption to withhold the remaining information in this e-mail is **approved**. This information is pre-decisional and contains the expression of opinions. Further, the Governor's Office has indicated that this document has not been publicly cited by the Governor. Therefore, the Governor's Office has met its initial burden of demonstrating that the remaining portion of the document is exempt from disclosure under Section 7(1)(f) of FOIA.

Additionally, the redaction on page 23 of "Marked PDF 6 Batch 3" does not contain "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies formulated." Therefore, the Governor's Office may not use the exemption contained in 7(1)(f) to withhold this information.

If you have any questions or concerns, please feel free to contact me at (312) 814-8413. This correspondence shall serve to close this matter.

Sincerely,

A solid black rectangular redaction box covering the signature of Rebecca Riddick.

Rebecca Riddick
Assistant Public Access Counselor

cc: Mr. John O'Connor
Joconnor@ap.org