



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 15, 2024

PUBLIC ACCESS OPINION 24-004
(Request for Review 2024 PAC 79748)

FREEDOM OF INFORMATION ACT:
Duty to Respond to FOIA Requests

Mr. Manny Ramos
Investigative reporter
Block Club Chicago
303 East Wacker Drive, Suite 2106
Chicago, Illinois 60601

Ms. Brigett R. Bevan
Director, Freedom of Information Compliance
Chicago Transit Authority
567 West Lake Street
Chicago, Illinois 60661

Dear Mr. Ramos and Ms. Bevan:

This binding opinion is issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2022), as amended by Public Act 103-069, effective January 1, 2024). For the reasons discussed below, this office concludes that the Chicago Transit Authority (CTA) violated section 3(d) of FOIA (5 ILCS 140/3(d) (West 2022)) by failing to comply with, deny in writing in whole or in part, or otherwise appropriately respond to a FOIA request submitted by Mr. Manny Ramos.

BACKGROUND

On December 12, 2023, Mr. Ramos, on behalf of Block Club Chicago, submitted the following FOIA request to CTA:

- I am asking for CTA's President Dorval Carter's public schedule and/or calendar. This should include events,

500 South 2nd Street, Springfield, Illinois 62701 • (217) 782-1090 • Fax: (217) 782-7046
115 South LaSalle Street, Chicago Illinois 60603, • (312) 814-3000 • Fax: (312) 814-3806
1745 Innovation Drive, Suite C, Carbondale, Illinois 62903 • (618) 529-6400 • Fax: (618) 529-6416

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meetings and media availability that Carter was expected to attend.
This request is only for the past six months from June 1, 2023 to
Dec. 1, 2023.^[1]

On December 19, 2023, CTA extended its time to respond by five business days pursuant to section 3(e)(vii) of FOIA (5 ILCS 140/3(e)(vii) (West 2022)).² Having received no response within that extended time period or thereafter, on January 9, 2024, Mr. Ramos sent an e-mail to CTA asking for an update.³

On January 16, 2024, Mr. Ramos submitted a Request for Review to the Public Access Counselor alleging that CTA had failed to respond to his FOIA request.⁴ Mr. Ramos stated that CTA had not responded to his January 9, 2024, status request, either.⁵

On January 19, 2024, the Public Access Bureau sent a copy of the Request for Review to CTA together with a letter asking whether CTA had received and responded to Mr. Ramos's FOIA request.⁶ If CTA had received but not responded to the request, the January 19, 2024, inquiry letter asked CTA to do so and to provide a copy of its response to this office.⁷ CTA did not respond to the inquiry letter.

¹E-mail from Manny Ramos, Investigative reporter, Block Club Chicago, to FOIA@transitchicago.com (December 12, 2023).

²Letter from Ashley P. Neuhauser, Senior FOIA, Compliance, & Appeals Attorney, Chicago Transit Authority, to Manny Ramos, Block Club Chicago (December 19, 2023).

³E-mail from Manny Ramos, Investigative reporter, Block Club Chicago, to FOIA@transitchicago.com (January 9, 2024).

⁴E-mail from Manny Ramos, Investigative reporter, Block Club Chicago, to Public Access [Bureau, Office of the Attorney General] (January 16, 2024).

⁵E-mail from Manny Ramos, Investigative reporter, Block Club Chicago, to Public Access [Bureau, Office of the Attorney General] (January 16, 2024).

⁶Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Brigett R. Bevan, Director, Freedom of Information Compliance, Chicago Transit Authority (January 19, 2024).

⁷Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Brigett R. Bevan, Director, Freedom of Information Compliance, Chicago Transit Authority (January 19, 2024), at 1. The inquiry letter also asked whether CTA had responded to two other FOIA requests for which Mr. Ramos alleged he received no response in additional Requests for Review, 2023 PAC 79747 and 2023 PAC 79749.

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On February 7, 2024, the Public Access Bureau sent an e-mail to CTA asking it to confirm that it would respond to the request that same week or, if not, to indicate its intentions.⁸ The following day, CTA responded: "CTA plans to substantively respond to this FOIA request and is currently working to finalize our response. We will issue our FOIA response as soon as possible."⁹

On March 8, 2024, Mr. Ramos notified this office that he still had not received a response to his request from CTA.¹⁰ As of the date of the issuance of this binding opinion, this office has not received confirmation or any indication from CTA or Mr. Ramos that CTA has substantively responded to the FOIA request.

ANALYSIS

"It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with [FOIA]." 5 ILCS 140/1 (West 2022). Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2022)), "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2022)) provides that "[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act." Section 3(d) of FOIA further provides:

Each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. Denial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. A public body that fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. A public body that fails to respond to a request received may not treat the request as unduly burdensome under subsection (g).

⁸E-mail from Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to [David] Montgomery and [Brigett] Bevan, [Chicago Transit Authority] (February 7, 2024).

⁹E-mail from Ashley P. Neuhauser, Senior FOIA, Compliance, & Appeals Attorney, Chicago Transit Authority, Law Department, to [Joshua] Jones, [Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (February 8, 2024).

¹⁰E-mail from [Manny Ramos, Investigative reporter, Block Club Chicago] to [Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General] (March 8, 2024).

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Section 3(e) of FOIA (5 ILCS 140/3(e) (West 2022)) permits a public body to extend its response time by no more than five business days for any of seven enumerated reasons. Any additional extension requires a written agreement between the requester and the public body. 5 ILCS 140/3(e) (West 2022).

It is undisputed that although CTA extended its time to respond to Mr. Ramos's December 12, 2023, FOIA request for a copy of CTA President Carter's public schedule/calendar by five business days on December 19, 2023, CTA did not subsequently comply with the request, deny the request in writing in whole or in part, or reach a written agreement with Mr. Ramos for a longer extension of its response time. CTA's failure to comply with the requisite response procedures violated section 3(d) of FOIA.

FINDINGS AND CONCLUSIONS

After full examination and giving due consideration to the information submitted, the Public Access Counselor's review, and the applicable law, the Attorney General finds that:

1) On December 12, 2023, Mr. Manny Ramos, on behalf of Block Club Chicago, submitted a FOIA request to CTA seeking a copy of CTA President Dorval Carter's public schedule and/or calendar from June 1, 2023, to December 1, 2023.

2) On January 16, 2024, Mr. Ramos submitted a Request for Review to the Public Access Bureau alleging that although CTA had extended its time to respond by five business days on December 19, 2023, CTA had not subsequently responded to his FOIA request. Mr. Ramos's Request for Review was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2022)), as amended by Public Act 103-069, effective January 1, 2024). Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

3) On January 19, 2024, the Public Access Bureau forwarded a copy of the Request for Review to CTA along with a letter asking whether CTA had responded to Mr. Ramos's FOIA request. CTA did not respond.

4) On February 7, 2024, the Public Access Bureau sent CTA an e-mail asking it to confirm if it would respond to the request that same week or, if not, to clarify its intentions. The following day, CTA advised that it planned to respond as soon as possible.

5) On March 8, 2024, Mr. Ramos e-mailed the Public Access Bureau and confirmed that he still had not received a response to his request from CTA.

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6) As of the date of the issuance of this binding opinion, this office has received no information indicating that CTA has responded to Mr. Ramos's December 12, 2023, FOIA request concerning CTA President Carter's public schedule/calendar.

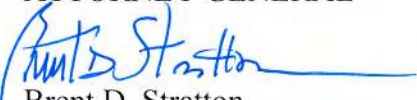
Therefore, it is the opinion of the Attorney General that CTA has violated section 3(d) of FOIA by failing, within the statutory time for responding to Mr. Ramos's December 12, 2023, FOIA request concerning CTA President Carter's public schedule/calendar, to provide copies of the requested records or to deny the request in writing in whole or in part. Accordingly, CTA is hereby directed to take immediate and appropriate action to comply with this opinion by providing Mr. Ramos with copies of all records responsive to his December 12, 2023, request, subject only to permissible redactions, if any, under section 7 of FOIA (5 ILCS 140/7 (West 2022), as amended by Public Acts 103-154, effective June 30, 2023; 103-423, effective January 1, 2024; 103-462, effective August 4, 2023; 103-446, effective August 4, 2023; 103-540, effective January 1, 2024; 103-554, effective January 1, 2024).¹¹ If CTA determines that any portion of the responsive records is exempt from disclosure under section 7, it is directed to issue a written denial that fully complies with the requirements of section 9(a) of FOIA (5 ILCS 140/9(a) (West 2022)).

This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2022). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Manny Ramos as defendants. *See* 5 ILCS 140/11.5 (West 2022).

Sincerely,

KWAME RAOUL
ATTORNEY GENERAL

By:


Brent D. Stratton
Chief Deputy Attorney General

¹¹Because CTA did not comply with the statutory requirements for responding to Mr. Ramos's FOIA request, CTA is precluded from treating the request as unduly burdensome or imposing copying fees for the responsive records. 5 ILCS 140/3(d) (West 2022).

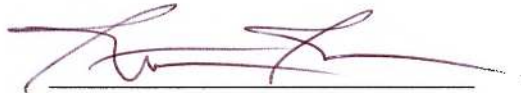
CERTIFICATE OF SERVICE

Steve Silverman, Bureau Chief, Public Access Bureau, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 24-004) upon:

Mr. Manny Ramos
Investigative reporter
Block Club Chicago
303 East Wacker Drive, Suite 2106
Chicago, Illinois 60601
manny@blockclubchi.org

Ms. Brigett R. Bevan
Director, Freedom of Information Compliance
Chicago Transit Authority
567 West Lake Street
Chicago, Illinois 60661
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by causing a true copy thereof to be sent electronically to the addresses as listed above and by causing to be mailed a true copy thereof in correctly addressed, prepaid envelopes to be deposited in the United States mail at Chicago, Illinois on March 15, 2024.


Steve Silverman
Bureau Chief

Steve Silverman
Bureau Chief
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Office of the Attorney General
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Chicago, Illinois 60601
(312) 814-6756