



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 21, 2024

PUBLIC ACCESS OPINION 24-008
(Request for Review 2024 PAC 81170)

FREEDOM OF INFORMATION ACT:
Meaning of "Security Measures"
in Section 7(1)(v) of FOIA

Ms. Sasha Mothershead
Fair Housing Specialist
HOPE Fair Housing Center
202 West Willow Avenue, Suite 203
Wheaton, Illinois 60187

Mr. Julio C. Hernandez
FOIA Officer
Government and External Affairs
Chicago Housing Authority
60 East Van Buren
Chicago, Illinois 60605

Dear Ms. Mothershead and Mr. Hernandez:

This binding opinion is issued 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 Housing Authority (CHA) violated the requirements of FOIA by improperly partially denying Ms. Sasha Mothershead's FOIA request.

BACKGROUND

On March 15, 2024, Ms. Mothershead submitted a FOIA request to the CHA, on behalf of the HOPE Fair Housing Center (HOPE), seeking an Excel file of certain information about each CHA Scattered Site property, including "Unit Address" and "Unit Status (ie. occupied

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or vacant)."¹ HOPE "is a HUD-approved,^[2] nonprofit organization dedicated to eliminating housing discrimination across Illinois."³ CHA's website describes the properties at issue in the request as follows:

CHA's Scattered Site properties consist of nearly 2,800 public housing units scattered individually or in small groups throughout Chicago's 77 communities and diverse housing populations. Scattered site units offer a variety of housing options including homes in newer construction condominium buildings, single family detached homes, and within market rate rental developments.^[4]

On March 22, 2024, CHA extended its time to respond by five business days pursuant to section 3(e)(vi) of FOIA (5 ILCS 140/3(e)(vi) (West 2022)).⁵ On March 29, 2024, CHA e-mailed Ms. Mothershead to state that it was still working on the request and would respond before the close of business on April 1, 2024.⁶ On April 4, 2024, having received no response, Ms. Mothershead e-mailed CHA to check the status.⁷ On April 5, 2024, CHA responded to the request by providing Ms. Mothershead with a spreadsheet of responsive information. The data, however, included only the second digit in the street number for each vacant unit. In its written response to the request,⁸ CHA asserted that the full street addresses

¹Letter from Sasha Mothershead, Fair Housing Specialist, HOPE Fair Housing Center, to FOIA Officer, Chicago Housing Authority (March 15, 2024), at [1].

²"HUD" stands for the United States Department of Housing and Urban Development.

³HOPE Fair Housing Center, <https://hopefair.org/> (last visited June 7, 2024).

⁴Public Housing, Chicago Housing Authority, <https://www.thecha.org/residents/public-housing> (last visited June 7, 2024).

⁵E-mail from Julio C. Hernandez, FOIA Officer, Government and External Affairs, Chicago Housing Authority, to [Sasha] Mothershead (March 22, 2024).

⁶E-mail from Julio C. Hernandez, FOIA Officer, Government and External Affairs, Chicago Housing Authority, to [Sasha] Mothershead (March 29, 2024).

⁷E-mail from Sasha [Mothershead, Fair Housing Specialist, HOPE Fair Housing Center] to [Julio C.] Hernandez, [FOIA Officer, Government and External Affairs, Chicago Housing Authority] (April 4, 2024).

⁸E-mail from Julio C. Hernandez, FOIA Officer, Government and External Affairs, Chicago Housing Authority, to [Sasha] Mothershead (April 5, 2024).

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were exempt from disclosure under section 7(1)(v) of FOIA,⁹ quoting the language of the exemption; CHA did not articulate a factual basis for its denial.¹⁰

On April 15, 2024, Ms. Mothershead e-mailed CHA seeking reconsideration of the denial of the full street numbers of the vacant units. On April 17, 2024, CHA responded that under section 7(1)(v), CHA "is able to withhold the full street addresses of vacant units as providing this information poses a threat to community safety and makes these buildings the targets of squatters and other illegal activity."¹¹ On April 24, 2024, Ms. Mothershead submitted a Request for Review contesting CHA's denial of the full street addresses for the vacant units.¹²

On April 26, 2024, the Public Access Bureau sent a copy of the Request for Review to CHA. The Public Access Bureau also sent CHA a letter asking for an unredacted copy of the requested dataset for this office's confidential review, together with a detailed explanation of the legal and factual bases for the applicability of the section 7(1)(v) exemption.¹³

On May 21, 2024, CHA provided this office with those materials.¹⁴ On May 23, 2024, this office forwarded a copy of CHA's answer to Ms. Mothershead and notified her of her opportunity to reply.¹⁵ On June 3, 2024, Ms. MacKenzie Speer, counsel for HOPE at the Chicago Lawyers' Committee for Civil Rights, submitted a reply.¹⁶

⁹5 ILCS 140/7(1)(v) (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.

¹⁰Pursuant to section 9(b) of FOIA (5 ILCS 140/9(b) (West 2022)), "[w]hen a request for public records is denied on the grounds that the records are exempt under Section 7 of this Act, the notice of denial shall specify the exemption claimed to authorize the denial and *the specific reasons for the denial, including a detailed factual basis* and a citation to supporting legal authority." (Emphasis added.)

¹¹E-mail from Julio C. Hernandez, FOIA Officer, Government and External Affairs, Chicago Housing Authority, to [Sasha] Mothershead (April 17, 2024).

¹²E-mail from Sasha Mothershead, Fair Housing Specialist, HOPE Fair Housing Center, to IL AG Public Access Counselor, [Office of the Attorney General] (April 24, 2024).

¹³Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Julio C. Hernandez, FOIA Officer, Government and External Affairs, Chicago Housing Authority (April 26, 2024), at 2.

¹⁴Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024).

¹⁵Letter from Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, to Sasha Mothershead, Fair Housing Specialist, HOPE Fair Housing Center (May 23, 2024).

¹⁶Letter from MacKenzie Speer, Program Counsel, Chicago Lawyers' Committee for Civil Rights, to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (June 3, 2024).

ANALYSIS

Section 1 of FOIA (5 ILCS 140/1 (West 2022)) declares that "it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government." Under FOIA, "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 (West 2022). The Illinois Supreme Court has "on several occasions, held that the exceptions to disclosure set forth in the FOIA are to be read narrowly so as not to defeat the FOIA's intended purpose." *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 416 (2006).

Section 7(1)(v) of FOIA exempts from disclosure:

Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, to cybersecurity vulnerabilities, or to tactical operations. (Emphasis added.)

In construing a statute, the primary objective is to ascertain and give effect to the intent of the General Assembly. *Southern Illinoisan*, 218 Ill. 2d at 415. "[T]he surest and most reliable indicator of" legislative intent "is the statutory language itself, given its plain and ordinary meaning." *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24.

By its plain language, section 7(1)(v) applies to records that meet three requirements. First, section 7(1)(v) applies to vulnerability assessments, security measures, and response policies or plans. Second, the vulnerability assessment, security measure, or response policy or plan must be created for the purpose of identifying, preventing, or responding to potential attacks on a community or its infrastructure. Finally, the disclosure of the vulnerability assessment, security measure, or response policy or plan could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public.

Section 7(1)(v) is narrow in scope and limited to specific types of records, unlike certain other FOIA exemptions that may apply to a wide variety of records and pieces of

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information. For example, the exemption in section 7(1)(c)¹⁷ of FOIA—for information that would constitute a clearly unwarranted invasion of personal privacy if disclosed—may apply to assorted highly personal information regardless of whether it is found in a police report, e-mail, résumé, or other kind of record. In contrast, to be exempt from disclosure under section 7(1)(v), a record (or information within a record) must first consist of or depict a vulnerability assessment, a security measure, a response policy, or a response plan. Previous binding opinions of this office have concluded that the numbers of police officers assigned to each police district in a city,¹⁸ police officer attendance records,¹⁹ and emergency response times²⁰ were improperly redacted or withheld under section 7(1)(v) because they did not meet the threshold requirement of constituting or containing vulnerability assessments, security measures, or response policies or plans.

In its response to this office, CHA stated that it redacted all but the second digit from each address "as a security measure * * * because the CHA has faced problems with housing activities and others forcibly entering vacant units and squatting in them."²¹ Here and throughout its response, CHA framed redacting the addresses as taking a security measure, rather than asserting that the addresses themselves constitute or depict a security measure designed to identify, prevent, or respond to potential attacks. For instance, CHA argued:

CHA's redactions of all but the second digit of the vacant housing as a security measure is reasonable under the circumstances given the security concerns for housing activities taking "self-help" measures, breaking locks and changing locks, and then squatting in CHA's vacant premises. This has happened at least eight times where eviction of the squatters was required. This requires CHA to expend additional resources to evict these squatters and repair the damage they caused. (Emphasis in original.)^[22]

¹⁷5 ILCS 140/7(1)(c) (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.

¹⁸Ill. Att'y Gen. Pub. Acc. Op. No. 11-002, issued February 25, 2011, at 3.

¹⁹Ill. Att'y Gen. Pub. Acc. Op. No. 21-005, issued June 2, 2021, at 7.

²⁰Ill. Att'y Gen. Pub. Acc. Op. No. 21-012, issued December 16, 2021, at 10.

²¹Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024), at 1.

²²Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024), at 2.

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Citing *Chicago Sun-Times v. Chicago Transit Authority*, 2021 IL App (1st) 192028, ¶¶ 48-51, CHA claimed that "Illinois law provides that such redactions as a security measure are appropriate under the [section] 7(1)(v) exemption if it 'could reasonably be expected' that releasing the full addresses will cause a potential breach in CHA keeping these vacant units secure and free from squatters."²³ CHA argued that the reasoning of *Chicago Sun-Times* applies because in redacting the street addresses, "CHA is taking a reasonabl[e] security measure to protect its vacant property and residents who live around it from squatters who can be reasonably expected to take advantage of these vacant properties, causing life, health, safety and property concerns."²⁴ CHA also asserted that the Illinois Appellate Court's decision in *Lucy Parsons Labs v. City of Chicago*, 2021 IL App (1st) 192073, demonstrates that it was appropriate to redact the street addresses pursuant to section 7(1)(v).²⁵

In reply, Ms. Speer argued that section 7(1)(v) does not apply by its plain language:

HOPE requested street numbers and addresses, which are designed to identify and locate properties. Addresses and street numbers are not vulnerability assessments, security measures, or response policies and plans. A street number is not and does not include any emergency response planning or infrastructure information that might be redacted or withheld under Section 7(1)(v).^[26]

CHA misconstrues section 7(1)(v) as authorizing public bodies to redact records as a security measure in and of itself. Section 7(1)(v) permits redactions of records that consist of or depict existing vulnerability assessments, security measures, or response policies or plans. The street addresses of vacant Scattered Site public housing units are simply pieces of data in a spreadsheet. They do not meet the threshold requirement of consisting of or depicting vulnerability assessments, security measures, or response policies or plans. The exemption in section 7(1)(v) therefore does not apply.

²³Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024), at 2.

²⁴Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024), at 4.

²⁵Letter from TaSheena Cunningham-Rimmer, Senior Assistant General Counsel, Office of the General Counsel, Chicago Housing Authority, to Joshua Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Illinois Attorney General (May 21, 2024), at 4.

²⁶Letter from MacKenzie Speer, Program Counsel, Chicago Lawyers' Committee for Civil Rights, to Joshua M. Jones, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General, State of Illinois (June 3, 2024), at 3.

The authority cited by CHA, which analyzed whether the disclosure of records that consist of or depict existing security measures designed to identify, prevent, or respond to potential attacks could jeopardize the effectiveness of those security measures, does not support its construction of section 7(1)(v). In *Chicago Sun-Times*, the Illinois Appellate Court upheld the denial of surveillance camera recordings of an altercation on a Chicago Transit Authority (CTA) rail platform pursuant to section 7(1)(v) because (1) CTA proved that its surveillance camera network was a security measure designed to identify and respond to potential attacks on its transit facilities; and (2) the disclosure of the recordings could reasonably be expected to jeopardize the effectiveness of the surveillance system. *Chicago Sun-Times*, 2021 IL App (1st) 192028, ¶¶ 48-51. The CTA explained that the surveillance cameras both "record[ed] video that can be retrieved on demand and shared with law enforcement authorities to investigate a crime[.]" and "provid[ed] live feeds to the CTA's security department and local law enforcement, which can be used to direct rescue personnel and provide real-time intelligence to responding law enforcement personnel." *Chicago Sun-Times*, 2021 IL App (1st) 192028, ¶ 48. Thus, having concluded that the threshold requirement of section 7(1)(v) was satisfied—the records at issue depicted security measures designed to identify, prevent, or respond to potential attacks upon a community's population or system, facilities, or installations—the court in *Chicago Sun-Times* then proceeded to explain that a public body need not prove that disclosing a record would in fact jeopardize the effectiveness of the measures to sustain its burden under section 7(1)(v). Similarly, the record at issue in *Lucy Parsons Labs* was among the specific types of records listed in the exemption—a response plan, described as an "action plan for 'managing unrest in the case of an acquittal[]'" of a police officer facing trial in connection with a fatal shooting. *Lucy Parsons Labs*, 2021 IL App (1st) 192073, ¶¶ 3, 14. Again, the street addresses that CHA redacted do not meet this threshold requirement, making discussion of the exemption's other requirements moot. Because the section 7(1)(v) exemption is inapplicable by its plain language, CHA improperly redacted the vacant unit street addresses responsive to Ms. Mothershead's request.

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 March 15, 2024, Ms. Sasha Mothershead submitted a FOIA request to CHA on behalf of the HOPE Fair Housing Center seeking an Excel file containing certain information for each CHA Scattered Site property, including unit addresses and unit statuses (i.e., occupied or vacant).
- 2) On April 5, 2024, CHA responded by providing Ms. Mothershead with an Excel spreadsheet containing responsive information, but redacted numbers from the street addresses for the vacant units except for the second digits under section 7(1)(v) of FOIA.
- 3) In an e-mail transmitted to the Public Access Bureau on April 24, 2024, Ms. Mothershead submitted a Request for Review contesting CHA's redaction of portions of the

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street addresses. The 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). Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

4) On April 26, 2024, the Public Access Bureau sent a copy of the Request for Review to CHA. The Public Access Bureau also sent CHA a letter asking for an unredacted copy of the responsive record for this office's confidential review, and a detailed explanation of the legal and factual bases for the applicability of the asserted exemption.

5) On May 21, 2024, CHA provided this office with an unredacted copy of the responsive spreadsheet and its written answer.

6) On May 23, 2024, the Public Access Bureau forwarded a copy of CHA's answer to Ms. Mothershead and notified her of her opportunity to reply. On June 3, 2024, Ms. MacKenzie Speer, counsel for the HOPE Fair Housing Center at the Chicago Lawyers' Committee for Civil Rights, submitted a reply.

7) Section 7(1)(v) of FOIA exempts from disclosure "[v]ulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public." Under the plain language of section 7(1)(v), a record must meet the threshold requirement of consisting of or depicting a vulnerability assessment, security measure, or response policy or plan to qualify for redaction under this section.

8) The street addresses of CHA's Scattered Site properties do not consist of or depict vulnerability assessments, security measures, or response policies or plans that are designed to identify, prevent, or respond to potential attacks. Accordingly, CHA did not demonstrate that the redacted portions of the street addresses fall within the plain language of the section 7(1)(v) exemption.

Therefore, it is the opinion of the Attorney General that the Chicago Housing Authority violated the requirements of FOIA by improperly redacting portions of the street addresses responsive to Ms. Mothershead's Freedom of Information Act request. Accordingly, CHA is hereby directed to take immediate and appropriate action to comply with this opinion by providing Ms. Mothershead and the HOPE Fair Housing Center with the full street addresses responsive to the March 15, 2024, FOIA request.

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 or Sangamon County within

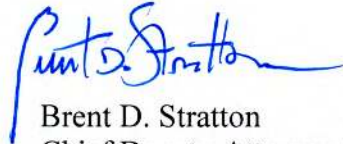
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35 days of the date of this decision naming the Attorney General of Illinois and Ms. Sasha Mothershead as defendants. *See* 5 ILCS 140/11.5 (West 2022).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:



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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 24-008) upon:

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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 June 21, 2024.



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Bureau Chief

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