

CHAPTER FOUR: THE ILLINOIS FREEDOM OF INFORMATION ACT

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Introduction and Overview

The Freedom of Information Act is a pro-disclosure statute that relies on the principle of the public's right to know. The first section of the act states, in part:

Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.¹

This Act is not intended to be used to violate individual privacy, nor for the purpose of furthering a commercial enterprise,² or to disrupt the duly-undertaken work of any

1. The Circuit Court of Cook County ruled that these principles—that the press plays a fundamental role as a watchdog of government, essential for informed debate on public issues—in ruling that there is a First Amendment right of access to documents covered by the Act. The court ruled that the constitutional right of access could only be overcome by a “compelling governmental interest,” with restrictions “narrowly tailored to serve that interest.” *Chicago Sun-Times Inc. v. Board of Education*, 22 Media L. Rep. 2469, 2472 (1994). The court held that the *Chicago Sun-Times*' First Amendment right made unnecessary an inquiry into whether internal audit reports it sought were exempt under FOIA.

2. The Act's statement in section 1 that it is not to be used “for the purpose of furthering a commercial enterprise” cannot be used as the basis for denying a request for records under the Act. It is a declaration of policy that “has no substantive legal force.” *Lieber v. Board of Trustees*, 176 Ill.

public body independent of the fulfillment of any of the fore-mentioned rights of the people to access to information.

This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law.

These restraints on information access should be seen as limited exceptions to the general rule that the people have a right to know the decisions, policies, procedures, rules, standards and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. The provisions of this Act shall be construed to that end.³

This chapter will review the act's disclosure requirements and explain how to make a Freedom of Information Act request, file an administrative appeal and sue to compel disclosure of records. The numerous statutory exemptions—grounds for denying requests under the act—will then be discussed, followed by a brief discussion of the act's administrative provisions and special problems that arise under the act.

The Basic Rule of Disclosure

2d 401, 414 (1997).

3. 5 ILCS 140/1.

Section 3(a) of the act states: “Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act.”⁴

(Section 7 contains the exemptions.)

4. 5 ILCS 140/3(a).

The act applies to every “public body” in Illinois.⁵ A “public body” is defined in detail as “any legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue.”⁶ This definition does not include the courts,⁷ but does include the rest of state and local government, state universities, colleges and public schools, and government advisory boards, committees, and commissions.⁸

5. The act was amended in 1997 to prohibit a public body from appointing a third party to act as its exclusive agent to grant access to public records. See 5 ILCS 140/3(a).

6. 5 ILCS 140/2(a). The Athletic Council of Illinois State University, a formally-constituted committee with broad advisory responsibility on athletic matters, is a “public body” under the act. *Board of Regents v. Reynard*, 292 Ill. App. 3d 968 (4th Dist. 1997). The court in *Reynard* noted that the Open Meetings Act’s definition of “public body” is very similar to FOIA’s. *Id.*, 975-76. Two corporations jointly established and funded by the City of Evanston and Northwestern University to develop a research park were ruled not subject to FOIA or the Open Meetings Act in *Hopf v. Topcorp, Inc.*, 256 Ill. App. 3d 887 (1st Dist. 1993). The court found that the city’s 50% funding of the corporations’ expenses and participation on their boards of directors did not render the corporations “subsidiary bodies” of the city that would be subject to FOIA. A Chicago city alderman was held not to be a “public body” under the act in *Quinn v. Stone*, 211 Ill. App. 3d 809 (1st Dist. 1991). The court said requests for an alderman’s records should be made to the City Council as a whole and the mayor as its head.

7. The Lake County Department of Court Services, an agency accountable to the chief judge of the Circuit Court which maintains records of an electronic monitoring service in connection with a pretrial release program, is not subject to FOIA. “The lack of any reference to the courts or judiciary must be taken as an intent to exclude the judiciary from the disclosure requirements of the Act.” *Copley Press, Inc. v. Administrative Office of the Courts*, 271 Ill. App. 3d 548, 553 (2d Dist. 1995).

8. Each department within Chicago city government is a “public body” under the Act. *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App. 3d 778 (1st Dist. 1999). Thus, as many as 50 separate requests may be required under FOIA to determine overall city policy. *Id.*, 787 (Greiman, J.,

“Any person” is entitled to make a request under the act. The act defines a “person” as an individual, corporation, partnership, organization or association.⁹ Nothing in the act requires a person making a FOIA request to identify himself or herself by name.

What Records Are Covered By The Act?

“Public records” are defined expansively and exhaustively in the Act.¹⁰ Included among the definition’s examples of “public records” are:

concurring in part and dissenting in part).

9. 5 ILCS 140/2(b).
10. 5 ILCS 140/2(c).

- letters, reports, memos, books, recordings and other documents prepared, received, possessed or used by a public body¹¹
- computer (electronic data processing) and microfilm records
- statements and interpretations of policy that have been adopted by a public body
- final planning policies, recommendations and decisions
- information in accounts, vouchers or contracts dealing with the receipt or expenditure of public funds
- names, salaries, titles, and dates of employment of all employees and officers of public bodies
- names of officials of public bodies and their voting records
- reports, documents, studies or publications prepared by or for a public body, including inspection reports and consultants' reports
- information relating to any grant or contract made by a public body, and contract, grant or permit applications (unless specifically exempted under Section 7).

11. What happens when a public body is willing to disclose a public record in its files, but another government body, which created the document, opposes disclosure? The Appellate Court ruled that the body willing to turn over the document must consult with the body opposing disclosure if it “knows the originating agency would assert an exemption. ... [M]ere possession of the documents ... is not determinative of an agency’s ability to release documents pursuant to the FOIA if another governmental entity has a substantial interest in asserting an exemption.” *Twin-Cities Broadcasting Corp. v. Reynard*, 277 Ill. App. 3d 777, 783 (4th Dist. 1996).

Prior to the enactment of the Freedom of Information Act, access to public records in Illinois was governed by the State Records Act and the Local Records Act, which were less thorough in their coverage.¹² These acts cover “reports and records of the obligation, receipt and use of public funds” of state and local governments and school districts, and require that these records be available for public inspection. The State and Local Records Acts do not cover records of the General Assembly.

The State and Local Records Acts both contain provisions saying that they apply “only to records or reports prepared or received” prior to July 1, 1984, the effective date of the Freedom of Information Act, and that records and reports prepared or received on and after July 1, 1984 are governed exclusively by FOIA.¹³ Thus, if your request for public records includes documents predating July 1, 1984, may want to include a reference to the State Records Act or the Local Records Act, as applicable, in your request.¹⁴

Making a Request Under the Act

Requests to inspect or copy public records under the act should be made in writing. A letter will suffice. (A sample request letter appears in the Appendix to this chapter.) Of course, you may find it easier to make an informal visit or a phone call to the government office first. They may show

12. The State and Local Records Acts are found at 5 ILCS 160/1 to 160/26 and 50 ILCS 205/1 to 205/15, respectively.

13. 5 ILCS 160/26 (state); 50 ILCS 205/15 (local).

14. However, the one appellate court that has decided this issue has ruled that FOIA applies to requests for pre-July 1, 1984 records. *Carrigan v. Harkrader*, 146 Ill. App. 3d 535 (3d Dist. 1986); see also *Pecora Oil Co. v. Johnson*, 156 Ill. App. 3d 521 (2d Dist. 1987).

you the records you wish to see or suggest how to pinpoint your request or tailor it to the government's record keeping system. But, to have legal effect under the act, the request must be put in writing.¹⁵ (See the "Other FOIA Requirements for Public Bodies" section of this chapter for materials that must be maintained by each public body that may help you in preparing your request.)

Remember to date your letter, and to keep copies of all correspondence related to your request. Sending the letter by fax, if the public body will accept faxed requests, or by certified mail with a return receipt, will give you a record of when your request was received. This is important because the act sets deadlines for the public body to respond. If you seek records from an agency with more than one office (*e.g.*, in Chicago and Springfield), send your request to the office that has the records; if you are not sure, you can send a separate request to each office.

Be specific. Making an all-encompassing request may delay the release of the records you really want. If you do not want certain types of documents that may be on file (*e.g.*, newspaper clippings), say so. This may reduce copying charges.

15. 5 ILCS 140/3(b).

You do not need to give a reason for requesting documents, though your purpose may be relevant if you are seeking a waiver of copying fees. (See below.) The act “does not require that the persons requesting the information explain their need for that information or their planned use of the information.”¹⁶

If you know the documents you want already have been released to someone else, it is a good idea to refer to the prior disclosure in your request. It will remind the public body that it has already decided the documents should be disclosed, and may avoid “selective disclosure” to favored individuals.¹⁷

16. *Family Life League v. Dept. of Public Aid*, 112 Ill. 2d 449, 456 (1986). Nevertheless, in a statewide check of compliance with FOIA, a majority of requests for records clearly disclosable under the act were turned down. One city schools superintendent voiced what was called a common attitude: “We can’t let just anybody come in here and rummage through our records.” Christopher Wills, “Many officials reluctant to provide public information,” Associated Press, July 24, 1999 (accessible through Lexis-Nexis).

17. Illinois’ Supreme Court denounced Southern Illinois University for resisting disclosure of the names of accepted freshmen to a landlord when it routinely had made this information available to others. “[S]elective disclosure by the government ‘is offensive to the purposes underlying the FOIA and intolerable as a matter of policy. Preferential treatment of persons or interest groups fosters precisely the distrust of government the FOIA was intended to obviate.’” *Lieber v. Board of Trustees*, 176 Ill. 2d 401, 413 (1997)(citation omitted).

The public body must respond to your written request—by giving you access to the documents you requested or denying the request—within seven working days after receiving it. If the response is a denial of your request (full or partial), the denial must be by letter.¹⁸

The seven-day time limit for responding to requests under the act can be extended by up to seven additional working days under several circumstances: (1) if some or all of the requested records are stored elsewhere; (2) if the request “requires the collection of a substantial number of specified records”; (3) if the request “is couched in categorical terms” and requires an extensive search; (4) if the requested records have not been found within the first seven days and efforts are still being made to find them; (5) if the records have to be examined to determine whether they are totally or partially exempt from disclosure, or are being redacted to delete exempt material; (6) if the request cannot be complied with without “unduly burdening or interfering with the operations of the public body”; or (7) if there is a need for the public body receiving the request to consult internally or with another public body.¹⁹

The public body that receives your a request must notify you by mail if it takes advantage of the seven-day extension. Its letter must specify the reason for the delay and the new response date. Only one seven-day extension is permitted.²⁰

Despite the clear deadlines imposed in the act, some public bodies often take more time than

18. 5 ILCS 140/3(c).

19. 5 ILCS 140/3(d).

20. 5 ILCS 140/3(e).

the law allows to process FOIA requests. Calling the public body to check on the status of your request or visiting the government office may speed the request along. Keep notes on these discussions or meetings. If you think it will help, send a confirming letter to the public body after your call or meeting.

If your request is granted, you may be charged for the copies. The act does not permit the public body to charge for time spent finding and reviewing the requested documents, however. Each public body must have and make public a standard fee schedule for copying, and charges must be designed only to cover copying costs.²¹

Copying fees may be waived or reduced if the FOIA request “states the specific purpose for the request and indicates that waiver or reduction of the fee is in the public interest.”²² The act says a fee waiver or reduction is “in the public interest” if its principal purpose is to “access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.”²³ The amount of materials sought and the cost of copying them are also to be taken into account in decisions on fee waivers.

21. 5 ILCS 140/6(a).

22. 5 ILCS 140/6(b).

23. Even though the news media operate as businesses, their requests will not be denied fee waivers on the grounds of “commercial benefit” as long as they meet the “health, safety, and welfare or the legal rights of the general public” criteria set out in the act. 5 ILCS 140/6(b).

The news media should consider asking for a fee waiver or reduction in initial request letters. However, note that under the act, you are required to state the “specific purpose” of your FOIA request in order to receive a waiver or reduction.

As is discussed below, the act contains numerous exemptions under which requests may be denied. The act explains how the government must respond to requests for public records that are partly exempt and partly non-exempt—the public body must disclose the non-exempt material, even if some or most of the record is exempt.²⁴ You should remind the public body of this rule in your initial request letter. When a document is partially exempt, the public body will usually “mask” or “white-out” the exempt part of the record in the photocopy you receive.

If Your Request is Denied

A denial of your request—giving you the right to an administrative appeal—can occur in four ways:

- 1) If the public body denies all or part of your request.²⁵
- 2) If the public body does not respond to your request within seven working days²⁶ (or up to seven additional working days, if the public body has taken advantage of the extension provisions).²⁷

24. 5 ILCS 140/8.

25. 5 ILCS 140/10(a).

26. 5 ILCS 140/3(c). This topic is discussed in further detail below.

27. 5 ILCS 140/3(d), 140/3(e). The extension provisions are discussed above.

- 3) If the public body has “purposeful[ly]” imposed a copying fee that is “not consistent” with the copying charge, fee waiver and fee reduction provisions of the act.²⁸
- 4) If the public body has refused access to records on the ground the request is “categorical” and compliance would be “unduly burdensome” for the public body.²⁹

28. 5 ILCS 140/6(c).

29. 5 ILCS 140/3(f). See discussion at the end of the “Exemptions” section, below.

Denials of requests under the act must be by letter, and must explain the reasons for the denial, the names and titles of those responsible for the denial, and any exemptions claimed in denying the request. The letter also must notify you of your right to appeal the denial to the head of the public body.³⁰

A denial of the second type listed above presents a dilemma. If you are in a hurry, you may be inclined to file a quick appeal, since that may spur the public body to respond to your original request. On the other hand, appealing immediately may delay release of the records you want, because higher-level personnel in the public body may be handling the appeal, and they will want to spend time reviewing it. Furthermore, waiting for the public body to respond in writing to your request will give you specific reasons for the agency's decision, and perhaps some or all of the records you have asked for. Since the act provides for only one appeal from the denial of an original request, it may be better to wait until you have concrete reasons for the denial—which you can understand and argue against—than to appeal without a written explanation that you can challenge. You may be able to speed the government's response by getting the public body to agree to a specific deadline, and saying you will appeal if you do not receive a response by that date.

Appeals to the Public Body

30. 5 ILCS 140/9(a).

If your request is denied for one of the reasons described above, and if you want to pursue the matter, you must file an appeal to the head of the public body. You may not file a lawsuit at this stage. “Head of the public body” is defined as “the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person’s duly authorized designee.”³¹ If you are not sure who the “head of the public body” is in your case, and if the denial letter does not specify whom an appeal letter should be sent to, a phone call to the public body or its legal counsel should provide the answer.

Before you appeal, you may want to try negotiating with the public body. They may agree to release records if you agree to narrow your request, or if you are willing to allow the government to delete information it considers “sensitive.”

The appeal should be made in a letter. (A sample appeal letter appears in the Appendix to this chapter.) If the agency’s response to your original request cites statutory exemptions or other legal reasons for denying the request, you may find it worthwhile to consult a lawyer concerning the appeal. An appeal letter prepared by an attorney also may carry more weight with the head of the public body—who probably will refer your appeal to the public body’s legal counsel in any case. The statute, however, does not require that a lawyer prepare or sign the appeal letter. If the letter denying your request is unclear as to the reasons for the denial, you should demand these reasons in your appeal letter.

31. 5 ILCS 140/2(e).

Appeals must be decided within **seven working days** after receipt.³² No extensions are allowed. If the head of the public body fails to act within seven working days,³³ or if he or she upholds the initial denial of your request (entirely or partly),³⁴ you may then sue the public body in court to compel disclosure of the public records. The same considerations concerning waiting for a decision on your appeal or filing suit immediately apply here. You may have to amend your lawsuit if the public body decides your appeal after you file suit. Also, courts will prefer to review specific reasons for a denial, and may give the public body extra time to issue a decision (see below).

Freedom of Information Act Lawsuits

If the head of the public body has denied your appeal or failed to act within the specified seven-day period, you may file suit in the Circuit Court for an injunction ordering the public body to stop withholding the requested records, or a declaration that the records you seek are “public records” that must be disclosed under the act.³⁵ If you are suing a state agency, the suit may be filed in the county where the public body has its principal office, or in the county where you reside.³⁶ If you are suing a municipality or other non-state public body, you must file suit in the county where

32. 5 ILCS 140/10(a).

33. 5 ILCS 140/10(b).

34. 5 ILCS 140/11(a).

35. 5 ILCS 140/10(b), 140/11(a).

36. 5 ILCS 140/11(b).

the public body is located.³⁷ It is advisable to consult an attorney before filing suit.

Freedom of Information Act lawsuits must be given expedited treatment in the courts.³⁸ However, at the beginning of the lawsuit, if the public body can demonstrate that it “is exercising due diligence in responding to the request,” and can show that “exceptional circumstances” exist (this term is not defined in the act), the court may give the agency extra time to finish reviewing the requested records.³⁹

37. 5 ILCS 140/11(c).

38. 5 ILCS 140/11(h).

39. 5 ILCS 140/11(d).

The act requires courts to make an independent evaluation of whether your request was properly denied. The court may decide to inspect the withheld documents in private before reaching its decision. Importantly, the act places the burden on the public body to prove that its refusal to permit inspection or copying of the requested records is justified under the act.⁴⁰ Thus, if the public body claims an exemption, it must persuade the court that your request falls within the exemption. You do not have the burden of showing that public records you seek are *not* exempt.⁴¹

After you file suit, you should consider asking the court to order the public body to furnish you with a list of all records being withheld, the types of information the documents contain, and a detailed explanation of the reasons for nondisclosure.⁴² This “index” will enable you to make more well-informed arguments in your lawsuit. It is especially difficult to challenge the withholding of documents without knowing what sorts of documents are being withheld.

40. 5 ILCS 140/11(f). See *Wayne County Press Inc. v. Isle*, 263 Ill. App. 3d 511, 513 (5th Dist. 1994).

41. A public body must prove in court that the specific request falls within an exemption created by the General Assembly. “A governmental agency may not clothe its records with an exemption from disclosure by bare assertions that the material is exempt.” *Osrán v. Bus*, 226 Ill. App. 3d 704, 709 (2d Dist. 1992) (citations omitted).

42. 5 ILCS 140/11(e).

If you “substantially prevail” in a Freedom of Information Act lawsuit,⁴³ the court may (but is not required to) order the public body to pay your attorney’s fees, if it finds that the “records in question were of clearly significant interest to the general public and that the public body lacked any reasonable basis in law for withholding the record.”⁴⁴

Exemptions

43. A court order requiring disclosure is not a prerequisite for an award of attorneys’ fees if “the filing of suit was reasonably necessary to obtain the information and a causal nexus exists between the action and the agency’s surrender of the information.” *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App. 3d 778, 786 (1st Dist. 1999)(citation omitted). See also *People ex rel. Ulrich v. Stukel*, 294 Ill. App. 3d 193, 202 (1st Dist. 1997).

The largest section of the Freedom of Information Act is its list of exemptions—categories of government records that are “exempt from inspection and copying.”⁴⁴ A list summarizing the exemptions follows.⁴⁵

44. 5 ILCS 140/7(1). In light of act’s pro-disclosure policy, see 5 ILCS 140/1, the Illinois Supreme Court has ruled that “[t]he FOIA is to be given a liberal construction There is a presumption that public records are open and accessible.” And, though privacy concerns and governmental efficiency interests merit attention, “exceptions to disclosure are to be read narrowly.” *Bowie v. Evanston Community Consol. School Dist.*, 128 Ill. 2d 373, 378 (1989). An Appellate Court opinion suggests that the Act’s exemptions are discretionary, not mandatory: “The exemptions cannot be read to prohibit dissemination of ... information, but rather are simply cases where disclosure is not required.” *Roehrborn v. Lambert*, 277 Ill. App. 3d 181, 186 (1st Dist. 1995).

45. The paragraph designations in the discussion that follows correspond to the exemptions in the

(a) Information the disclosure of which is “specifically prohibited” under federal or state laws or regulations.⁴⁶

act. Thus, paragraph (b) below corresponds to exemption 7(1)(b) in the act, 5 ILCS 140/7(1)(b).

46. Probation records, for example, are not public records and their disclosure, except to a court, is prohibited under the Illinois Code of Criminal Procedure. Thus, these records are exempt under this section of the act. *Smith v. Cook County Probation Dept.*, 151 Ill. App. 3d 136 (1st Dist. 1986). Similarly, some parole records are exempt under Illinois Prisoner Review Board regulations. *Williams v. Klinicar*, 237 Ill. App. 3d 569 (3d Dist. 1992). To invoke this exemption, the state must demonstrate the specific application of statutory exemptions to the records in question. Vague or conclusory assertions that records are exempt will not suffice. *Id.*, 572-73. Without deciding that a court order could constitute “state law” for purposes of this exemption, the Appellate Court ruled that the City of Carbondale could not shield a settlement agreement in a civil suit from disclosure under this exemption by requesting and obtaining a “gag order” forbidding disclosure of the settlement terms. *Carbondale Convention Center, Inc. v. City of Carbondale*, 245 Ill. App. 3d 474 (5th Dist. 1993). A trial court ruled that disclosure of marriage license applications is prohibited under the Vital Records Act, 410 ILCS 535/27. Without reaching the merits of the finding, this ruling was reversed on the grounds the trial court had wrongly required the plaintiff to prove the records were not exempt. *Wayne County Press Inc. v. Isle*, 263 Ill. App. 3d 511 (5th Dist. 1994).

(b) Information that, if disclosed, would constitute “a clearly unwarranted invasion of personal privacy,”⁴⁷ unless the subject of the information consents in writing to disclosure.⁴⁸ The act states that “[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.” It then lists examples of information that is exempt under this section.⁴⁹

47. The court in *Schessler v. Dept. of Conservation*, 256 Ill. App. 3d 198, 202 (4th Dist. 1994), noted that different uses of the term “personal privacy” in section 7(1)(b) exemptions indicate that “the legislature envisioned different degrees of ‘invasion of personal privacy.’” By requiring that section 7(1)(b) invasions be “clearly unwarranted,” and by placing the burden of proving an exemption on the public body, the act erects a “strict standard” of proof to justify 7(1)(b) exemptions, particularly where they do not fall within any of the specified examples. “The purpose of the privacy exemption to FOIA is to protect individuals from injury and embarrassment that might result from the unnecessary disclosure of highly personal information.” *Chicago Tribune Co. v. DuPage Airport Authority*, 23 Med. L. Rep. 1605, 1606 (2d Dist. 1995) (“unpublished” decision).

48. Records showing use of a county airport authority’s charter service by the general public were ruled not exempt under section 7(1)(b) in *Chicago Tribune Co. v. DuPage Airport Authority*, 23 Med. L. Rep. 1605 (2d Dist. 1995) (“unpublished” decision). A settlement agreement in a lawsuit against a city that contained detailed confidentiality and nondisclosure provisions, which was not filed as a court record, was nevertheless held subject to disclosure under FOIA and not exempt under section 7(1)(b). The court said if the settlement agreement had recited facts showing that an unwarranted invasion of privacy would result from disclosure, it might have reached the opposite result. *Centralia Press Ltd. v. City of Mt. Vernon*, 25 Media L. Rep. 1120 (Cir. Ct., Jefferson Co. 1996).

49. Records that fall within the five examples in section 7(1)(b) are *per se* exempt, without further inquiry into whether disclosure would result in an invasion of privacy, and whether the invasion would be “clearly unwarranted.” *Lieber v. Board of Trustees*, 176 Ill. 2d 401 (1997). However, because the act says that information exempt under section 7(1)(b) “shall include but is not limited to” the five examples, courts must analyze privacy claims that fall outside the five examples on a case-by-case basis. The court cited with approval an analysis of the following factors, when the case-by-case balancing approach is appropriate: (1) the plaintiff’s interest in disclosure, (2) the public interest in disclosure, (3) the degree of invasion of personal privacy, and (4) the availability of alternative means of obtaining the requested information. Before the *Lieber* decision, appellate courts disagreed whether an analysis of privacy interests was required in every case. Compare *Schessler v. Dept. of Conservation*, 256 Ill. App. 3d 198 (4th Dist. 1994), *Healey v. Teachers Retirement System*, 200 Ill. App. 3d 240 (4th Dist. 1990), *Staske v. City of Champaign*, 183 Ill. App. 3d 1 (4th Dist. 1989) and *Copley Press, Inc. v. City of Springfield*, 143 Ill. App. 3d 370 (4th Dist. 1986), which

(1) files and personal information concerning clients, patients, residents, students and others receiving social, medical, educational, vocational, financial, supervisory or custodial care or services from federal or public agencies;⁵⁰

employed the *per se* approach adopted in *Lieber*, with *CBS, Inc. v. Partee*, 198 Ill. App. 3d 936 (1st Dist. 1990), *Margolis v. Dept. of Revenue*, 180 Ill. App. 3d 1084 (1st Dist. 1989) and *City of Monmouth v. Galesburg Printing & Publishing Co.*, 144 Ill. App. 3d 224 (3d Dist. 1986), which advocated an analysis of privacy considerations in each case. The pre-*Lieber* conflict of authority was discussed in detail in *David Blumenfeld, Ltd. v. Illinois Dept. of Professional Regulation*, 263 Ill. App. 3d 981 (1st Dist. 1993).

50. Names and addresses of freshmen accepted at Southern Illinois University are not “personal information” under section 7(1)(b). “Where the legislature intended to exempt a person’s identity from disclosure, it did so explicitly. ... Accordingly, ... the phrase ‘personal information’ must have been intended by the legislature to be understood not in the sense of basic identification, but in the sense of information that is ‘confidential’ or ‘private.’” *Lieber v. Board of Trustees*, 176 Ill. 2d 401,

412 (1997). *Lieber* was applied narrowly by a divided Appellate Court panel in *Gibson v. Illinois State Board of Education*, 289 Ill. App. 3d 12 (1st Dist. 1997), ruling that names and addresses of students receiving General Assembly scholarships from state legislators were “personal information” qualifying for the *per se* exemption of section (b)(i). “We believe the receipt of financial aid or scholarship information is intensely ‘confidential’ and ‘private.’” *Id.*, 21. Before *Lieber*, another panel held that names and addresses of students and their parents are covered by this exemption. *Local 1274 v. Niles Township High School*, 287 Ill. App. 3d 187 (1st Dist. 1997). The Appellate Court ruled that a strong public interest in alerting the public to possible “cancer clusters” may outweigh privacy interests in disclosing Illinois Cancer Register data listing type of cancer, date of diagnosis and the patient’s zip code. The case was remanded to determine whether the requested data would tend to identify individual cancer patients. *Southern Illinoisan v. Dept. of Public Health*, ___ Ill. App. 3d ___ (5th Dist. 2001), 2001 Ill. App. LEXIS 219.

(2) personnel files and personal information concerning employees, appointees and elected officials of a public body, or applicants for these positions;⁵¹

(3) files and personal information concerning persons who apply for or hold occupational or professional licenses or registration, including disciplinary proceedings;⁵²

51. The name and race of all Cook County assistant state's attorneys was ruled exempt from disclosure in *CBS, Inc. v. Partee*, 198 Ill. App. 3d 936 (1st Dist. 1990), on privacy grounds. The court implied that aggregate information (not linked to individual names) would not be exempt.

52. Sales data of lottery ticket agents identified by geographical location were not exempt under this section, despite a claim that disclosure might render the vendors more subject to robbery. *Cooper v. Dept. of the Lottery*, 266 Ill. App. 3d 1007, 1020-24 (1st Dist. 1994). Liquor license applications were held to be exempt under this section in *Copley Press, Inc. v. City of Springfield*, 143 Ill. App. 3d 370 (4th Dist. 1986). However, a license to conduct a pigeon shoot under the now-repealed Bird Shooting Act is not an "occupational license," since it applied to a one-time event. *Schessler v. Dept. of Conservation*, 256 Ill. App. 3d 198, 201 (4th Dist. 1994) (distinguishing *Copley Press*). On the other hand, Illinois Attorney General Neil F. Hartigan ruled that the names of

(4) information required of taxpayers in connection with assessment or collection of taxes, except where disclosure is required by state law;

currency-exchange license holders and applicants (including shareholders, partners and other principals of business entities) are not exempt under this section, even though currency exchange licenses are “occupational licenses” for purposes of the act, since (1) no privacy interests are invaded by the mere disclosure of names, and (2) “the public interest in being able to monitor the activities of public bodies when undertaking the critical duties of licensing and regulation,” reflected in the act’s pro-disclosure policy, “must also be considered.” Op. Atty. Gen. 90-002 (1990). Notices sent by the Dept. of Professional Regulation to subjects of investigations and occupational license-holders found to have violated its regulations were ruled exempt, after an analysis of privacy interests, in *David Blumenfeld, Ltd. v. Illinois Dept. of Professional Regulation*, 263 Ill. App. 3d 981 (1st Dist. 1993).

(5) information revealing the identity of persons who file complaints or provide information to administrative, investigative, law enforcement or penal agencies.⁵³ However, witnesses to traffic accidents may be identified and traffic accident reports and rescue reports may be disclosed by local government agencies, unless “a criminal investigation is ongoing.”⁵⁴

53. The city of Monmouth’s policy of refusing to disclose the name, age, sex and address of crime victims, which the city felt was compelled by this exemption, was declared unlawful in *City of Monmouth v. Galesburg Printing & Publishing Co.*, 144 Ill. App. 3d 224 (3d Dist. 1986). However, in *Staske v. City of Champaign*, 183 Ill. App. 3d 1 (4th Dist. 1989), the Appellate Court approved the practice of deleting witness information and statements from police traffic accident reports. This decision predated the 1994 amendment to this section. See footnote 56, below. The Appellate Court said that recordings of a “911” call and three follow-up calls by a sheriff’s department were exempt from disclosure without consent of the “911” caller. *Brazas v. Ramsey*, 291 Ill. App. 3d 104, 109 (2d Dist. 1997)(dicta).

54. The traffic accident exception was made by amendment to the act in 1994. P.A. 88-444, §5.

(c) Records compiled by any public body for “administrative enforcement proceedings” or by a “law enforcement or correctional agency” for law enforcement purposes, or for “internal matters of a public body,” if disclosure of the information would: (1) interfere with pending or contemplated enforcement proceedings;⁵⁵ (2) deprive a person of a fair trial or hearing; (3) unavoidably disclose the identity of a confidential source or confidential information furnished by the source;⁵⁶ (4) disclose “unique or specialized investigative techniques” or “internal documents of correctional agencies” involving crime or misconduct; (5) constitute an invasion of personal privacy under Exemption 7(1)(b), above, (6) endanger the life or physical safety of law enforcement personnel or anyone else;⁵⁷ or (7) obstruct an ongoing criminal investigation.⁵⁸

55. A routine analysis of wastewater samples performed by the Metropolitan Sanitary District of Greater Chicago, to ensure that industrial users were accurately reporting their own waste discharge statistics, was ruled to be an “enforcement proceeding” in *Griffith Laboratories U.S.A. v. Metropolitan Sanitary Dist.*, 168 Ill. App. 3d 341 (1st Dist. 1988). The court said enforcement proceedings included both prosecutions to bring law violators to justice and protective investigations designed to deter or prevent violations of the law. Attorney General Jim Ryan ruled that factual information in underground storage tank removal logs maintained by the State Fire Marshal did not fall under this exemption. Op. Atty. Gen. 96-032 (1996).

56. A 1,000-page State Police file containing results of an investigation into sexual harassment charges against the mayor of Springfield was held exempt under the “confidential source” law enforcement exemption. The interviewees who had expressed concerns about confidentiality had been assured of confidential treatment. Using a federal FOIA case as persuasive authority, the court concluded that “confidential source” need not be limited to paid or undercover informants, but could include anyone furnishing information with the understanding that the communication would not be divulged except to the extent thought necessary for law enforcement purposes. Because of the relatively limited number of sources, disclosure of the underlying information would necessarily result in disclosure of the sources’ identities; redaction of the file was thus held impossible. *Copley Press v. City of Springfield*, 266 Ill. App. 3d 421 (4th Dist. 1994).

57. Recordings of a woman’s call to “911” and three follow-up calls by the Kane County Sheriff’s Dept. could be withheld under the “life or physical safety” exemption where the woman’s ex-husband was requesting their release after a difficult divorce and child custody case. *Brazas v. Ramsey*, 291 Ill. App. 3d 104 (2d Dist. 1997).

(d) “Criminal history record information.” This term is defined as information collected by state or local criminal justice agencies on identified individuals that describes or records arrests, detentions, indictments, other criminal charges and dispositions of the charges, sentencing, correctional supervision and release. (It thus includes most arrest records.) This term does *not* include “statistical records and reports” that do not identify individuals, “chronologically maintained arrest information, such as traditional arrest logs or blotters,” the name of a person in custody and the charges on which the person is being held; court and other records that are otherwise public records, and records requested by the person identified in the record (unless a life would be endangered by its disclosure).

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

58. “The classification of information as ‘law enforcement’ or ‘investigatory’ does not necessarily foreclose access unless it can be shown, in a particular case, that disclosure would interfere with law enforcement and would, therefore, not be in the public interest.” *Baudin v. City of Crystal Lake*, 192 Ill. App. 3d 530, 536 (2d Dist. 1989).

(f) Drafts, notes, recommendations and other documents expressing opinions or suggesting policy decisions, including preliminary legislative documents. The record is not exempt, however, if it is “publicly cited” and “identified by the head of the public body.”⁵⁹

(g) Trade secrets and commercial or financial information obtained by the government from individuals or businesses that is “proprietary, privileged or confidential,” or which, if disclosed, “may cause competitive harm.”⁶⁰

59. This exemption covers preliminary documents rather than final documents embodying decisions and policies. The “preliminary” vs. “final” distinction is discussed in *Hoffman v. Dept. of Corrections*, 158 Ill. App. 3d 473 (1st Dist. 1987). Opinions on whether contamination has occurred when an underground storage tank is removed, based on visual inspection rather than scientific analysis, may constitute opinions exempt under this section. However, only the opinions, not the factual portions of reports that contain them, should be withheld. Op. Atty. Gen. 96-032 (1996).

60. To qualify for the trade secret exemption, substantial harm to the competitive position of the entity that provided information to the government must be a likely result of disclosure. *Cooper v. Dept. of the Lottery*, 266 Ill. App. 3d 1007, 1013 (1st Dist. 1994)(applying federal FOIA case law).

(h) Proposals and bids for contracts or grants, and information prepared for the public body's solicitation of bids, until an award or final selection is made.

(i) Valuable formulas, designs, drawings and research data obtained or produced by any public body if disclosure could result in "private gain or public loss."⁶¹

The court in *Cooper* held that the state lottery, as a monopoly, could not suffer competitive injury, and ordered release of the advertising and marketing plan prepared by an advertising agency retained by the department. The court rejected the same claim with regard to sales figures of lottery ticket agents identified by geographic location. *Id.*, 1019-20. A county airport authority's records showing use of its charter service by the general public was ruled not exempt as a trade secret in *Chicago Tribune Co. v. DuPage Airport Authority*, 23 Media L. Rep. 1605 (2d Dist. 1995) ("unpublished" decision).

61. Financial records of the DuPage Airport Authority's private charter service were not exempt on the grounds they would reveal the county's pricing formula. *Chicago Tribune Co. v. DuPage Airport Authority*, 23 Media L. Rep. 1605 (2d Dist. 1995) ("unpublished" decision).

(j) Test questions, scoring keys and other examination material used in academic testing, or to determine qualifications of job or license applicants.⁶²

(k) Architects' and engineers' plans for buildings constructed at least in part with public funds, "to the extent that disclosure would compromise security." Also, plans for all buildings not financed with public funds, without regard to security considerations.

(l) Library records identifying users with specific materials.

(m) Minutes of closed meetings under the Illinois Open Meetings Act, until they are required to be disclosed under that act.

(n) Documents protected by the attorney-client privilege, legally privileged documents prepared at the request of the public body's attorney, and materials created in connection with "internal audits" of public bodies.⁶³

62. A psychologist's interview notes from a test used to screen applicants for police jobs were held exempt in *Roulette v. Illinois Dept. of Central Management Services*, 141 Ill. App. 3d 394 (1st Dist. 1986).

63. The *Chicago Sun-Times* won access to internal audits of Chicago Public Schools teacher payroll records and internal school accounts on First Amendment grounds in *Chicago Sun-Times Inc. v. Board of Education*, 22 Media L. Rep. 2469 (Cir. Ct., Cook Co. 1994). The newspaper's constitutional right of access to government documents, which enables the newspaper to perform its "watchdog" role, made unnecessary an analysis of whether the requested documents were exempt under FOIA, the court ruled. *Id.*, 2471.

- (o) Peer review documents used to evaluate faculty members in schools and colleges.
- (p) Computer software and related materials which, if disclosed, would jeopardize the system's security or data.
- (q) Documents relating to collective bargaining between public bodies and their employees. Final contracts are not exempt.
- (r) Drafts, notes and other preliminary records dealing with public financing and marketing transactions, including municipal bond ownership records.⁶⁴
- (s) Records dealing with the purchase and sale of real estate, until purchase negotiations are completed (or terminated), or until the sale is consummated⁶⁵; also, documents relating to planned eminent domain proceedings.
- (t) Proprietary risk management and self-insurance records.
- (u) Information concerning university student or employee grievance and disciplinary cases, if disclosure would reveal the student's or the employee's identity. Information concerning any public body's adjudication of a student or employee grievance or disciplinary case, except for the "final outcome" of the case, also is exempt.

64. Exemption 1(r) is limited to marketing of government bond issues by public bodies, rather than all marketing activities of a public body. *Cooper v. Dept. of the Lottery*, 266 Ill. App. 3d 1007, 1017 (1st Dist. 1994)(ordering release of marketing plan prepared by advertising agency retained by state lottery).

65. Records relating to a real estate purchase will not be exempt if the public body is "merely contemplating entering into negotiations." *Osran v. Bus*, 226 Ill. App. 3d 704, 709 (2d Dist. 1992). To be exempt, the negotiations must be "underway or, at the very least, imminent, in the sense that the governmental body is, for example, delineating a negotiating strategy, or actually formulating an offer, for a site it wishes to acquire." *Id.*, 710. Similarly, a parcel of land that will be subject to eminent domain must be actually selected for the proceedings to be exempt as "pending or actually and reasonably contemplated." *Id.*, 710-11.

- (v) Faculty course materials and research materials.
- (w) “Information related solely to the internal personnel rules and practices of a public body.”⁶⁶
- (x) Reports and related information concerning state regulation of banks and insurance companies unless disclosure is otherwise required by state law.
- (y) Restricted Illinois Commerce Commission records concerning public utility regulation.
- (z) State tax collection and criminal law enforcement staff manuals and instructions.
- (aa) Medical records and applications prepared or received by the Experimental Organ Transplantation Procedures Board.

66. Internal agency documents are exempt under this section only if they are developed primarily for internal use and disclosure of the records would significantly help third parties evade the laws or regulations administered by the agency. *Baudin v. City of Crystal Lake*, 192 Ill. App. 3d 530 (2d Dist. 1989).

- (bb) Insurance or self-insurance claims, loss or risk management information.⁶⁷
- (cc) Restricted Dept. of Public Health information and records concerning sexually-transmitted diseases.
- (dd) Information that is exempt under the Radon Industry Licensing Act.
- (ee) Performance evaluations of architectural, engineering and land surveying firms after they complete work under contracts with state agencies. Also, the firms' responses to these performance evaluations.
- (ff) Investigation reports and other information related to public transportation accident safety standards of the Regional Transportation Authority and the Bi-State Development Agency.
- (gg) Information identifying purchasers and beneficiaries under the Illinois prepaid tuition program.
- (hh) Documents generated under the State Gift Ban Act, which restricts gifts to state public officials and employees.⁶⁸

67. A settlement agreement in a lawsuit against a municipality, even if the payment was covered by insurance, is not exempt under this section. *Centralia Press Ltd. v. City of Mt. Vernon*, 25 Media L. Rep. 1120 (Cir. Ct., Jefferson Co. 1996).

68. Though this section exempts documents created by state ethics commissions, ethics officers and jurisdiction authorities, it does not *per se* cover records of a local ethics commission governed by the Gift Ban Act. Op. Atty. Gen. 99-007 (1999). However, exemptions 1(b)(ii) [privacy] and 1(c) [law enforcement proceedings] may apply in individual cases. *Id.*

(ii) Information that might lead to disclosure of confidential information under the Electronic Commerce Security Act.

(jj) Local emergency energy plans adopted by electric utilities serving Chicago customers.

(kk) Information about state-imposed surcharge fees remitted by wireless telephone carriers for 911 service, other than the aggregate amounts paid by all carriers.

In addition to these 37 exemptions, the act indirectly creates two more. If a request calls “for all records falling within a category,” and compliance with the request “would be unduly burdensome for the complying public body,” and if “there is no way to narrow the request and the burden on the public body outweighs the public interest in the information,” the public body can deny the request.⁶⁹ However, the public body is obligated to write to the requesting party and offer to discuss the problem, in an effort to “reduce the request to manageable proportions.” If, despite these efforts, the public body still feels unduly burdened, it must write to the requester, explaining the situation. This decision can then be appealed, as in other cases where access is denied. This section also permits a public body to deny “repeated requests for the same public records by the same person.”

Requests for Records Stored on Computers

Increasingly, public records are being kept on computers, and only on computers. Thus, more and more disputes under the act have concerned access to computerized records.

69. 5 ILCS 140/3(f).

As noted above, the act’s definition of “public records” specifically includes “electronic data processing records ... regardless of physical form or characteristics.”⁷⁰ The definition of “copying” includes “reproduction of any public record by means of any ... electronic, mechanical or other process, device or means.”⁷¹ The act itself requires public bodies to be user-friendly—to make available to the public “a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.”⁷²

70. 5 ILCS 140/2(c).

71. 5 ILCS 140/2(d).

72. 5 ILCS 140/5.

But if a computer record is available in two formats, paper printout and computer tape, can the public body decide which one to release? In *American Federation of State, County & Municipal Employees (AFSCME) v. County of Cook*,⁷³ the Illinois Supreme Court ruled that the party making the FOIA request can select the format, if the record is maintained in both forms. In *AFSCME*, the court said Cook County could be required to furnish a copy of a computer tape rather than a paper printout. The court noted AFSCME's claim that it would cost \$900 to re-enter the data into a computer from a paper printout, if the data was not furnished in machine-readable tape format. The court said, however, that "the provider of information is not required to prepare its records in a new format merely to accommodate a request."⁷⁴

In *Family Life League v. Dept. of Public Aid*,⁷⁵ the Illinois Supreme Court ruled that public bodies must develop a computer program where necessary to delete confidential or exempt information from records stored in a computer database, in order to disclose data that is not exempt. The court rejected the state's argument that deleting extraneous information would result in creation of a "new record"—something that public bodies cannot be required to do under the act. Likewise, a public body is not creating a "new record" even if it has to retrieve information stored in two separate databases to respond to a single request, the Illinois Supreme Court ruled in *Hamer v. Lentz*.⁷⁶ So long as computerized information is maintained by a public body "in the ordinary course

73. 136 Ill. 2d 334 (1990).

74. 136 Ill. 2d at 343.

75. 112 Ill. 2d 449 (1986). This case dealt with a request under the State Records Act, but has been cited by the Supreme Court in later Freedom of Information Act cases.

76. 132 Ill. 2d 49 (1989).

of business” and is nonexempt, the court ruled, it must be disclosed.⁷⁷ The further step of “scrambling” data in order to prevent identification of individuals, for privacy reasons, can also be required of a public body under the act without the agency’s being said to have created a “new record,” according to the Illinois Supreme Court’s holding in *Bowie v. Evanston Community Consolidated School District*.⁷⁸

The Illinois Supreme Court’s first three cases under the Freedom of Information Act involved records stored on computers. Although the court has been mindful of public bodies’ claims that requests for computer data may be burdensome, it has returned time and again to the pro-disclosure policies of the act in interpreting the statute so as to maximize public access. New technology is likely to raise more thorny issues in future FOIA cases.

Other FOIA Requirements for Public Bodies

77. 132 Ill. 2d at 56.

78. 128 Ill. 2d 373 (1989).

Each public body is required to display at each of its offices, and to make available by mail and for public inspection and copying, a description of the public body, its functions, its organizational chart, its total budget, the number and location of its offices, the number of its employees, and the membership of its advisory boards and committees.⁷⁹ A public body also must make available for public inspection a current list of the types and categories of records it keeps.⁸⁰ Each public body also must publish a “how to make a request” circular, a directory of officers to whom requests should be sent, and a copying fee schedule.⁸¹ Public bodies may issue rules and regulations concerning the procedures they follow in handling requests under the act.⁸² All of these materials should be helpful in preparing requests under the act.

In addition, each public body must keep and make public a central file of letters denying FOIA requests. The file is to be indexed according to the exemption asserted in the denial and, “to

79. 5 ILCS 140/4(a).

80. 5 ILCS 140/5.

81. 5 ILCS 140/4(b).

82. 5 ILCS 140/3(g). It may be helpful to call the public body and check its website to inquire about special rules or request forms before submitting a FOIA request.

the extent feasible,” indexed according to the types of records requested.⁸³

83. 5 ILCS 140/9(b). This section does not require the City of Chicago to maintain a single “central file” of denied FOIA requests. Since each city department constitutes a “public body,” a file kept by each department satisfies the Act. *Duncan Publishing, Inc. v. City of Chicago*, 304 Ill. App. 3d 778 (1st Dist. 1999).

APPENDIX

[Date]

BY FAX AND CERTIFIED MAIL

Mr. John Doe
City Clerk
City of Rockfield
City Hall
Rockfield, Illinois 60999

Dear Mr. Doe:

This is a request under the Illinois Freedom of Information Act.

I would like to inspect and copy any records prepared, received or used by your office relating to the expenses of the Board of Aldermen on their recent legislative factfinding trip to Honolulu, Hawaii. I do not wish to inspect or copy newspaper clippings. I specifically would like to inspect and copy all expense account vouchers, cancelled checks and any resolutions of the Board of Aldermen authorizing payment on these accounts, but this itemization is not intended to limit my request.

I would like to inspect these documents before any copies are made. [Or: Please make copies of all documents covered by my request and mail them to me. If, however, the copying charges will exceed \$25.00, please contact me by telephone and we can discuss limiting the request or my visiting your office to inspect the documents before they are copied.]

I am a reporter from the *Rockfield Daily Bugle*, and believe that disclosure of the information in these records is in the public interest, and will primarily benefit the general public. Accordingly, under Section 6(b) of the Freedom of Information Act, I request a waiver or reduction of any copying charges that your office would ordinarily impose in responding to this request.

I would like to remind you that under Section 8 of the Freedom of Information Act, all non-exempt portions of any partially-exempt documents must be disclosed.

As you know, your office must respond to this request within seven working days after receipt of this request. If you have any questions, or if I can be of any assistance, please call me during regular business hours at (815) 555-5555.

Sincerely,

Woodward N. Bernstein

[Date]

**BY CERTIFIED MAIL
NOTICE OF APPEAL**

Mayor Joan Jones
City of Rockfield
City Hall
Rockfield, Illinois 60999

Dear Mayor Jones:

This is an appeal under Section 10 of the Illinois Freedom of Information Act.

I am appealing from the action of City Clerk John Doe, dated [date], in response to my Freedom of Information Act request, dated [date]. I enclose copies of my request and Mr. Doe's response.

My request letter asked for records relating to the expenses of the Board of Aldermen on their recent legislative factfinding trip to Honolulu, Hawaii. Though I was granted access to inspect and copy of the Board of Aldermen resolutions authorizing payment of these expenses, I was denied access to the expense account vouchers and cancelled checks on these grounds: (1) that disclosure of purchases made by the aldermen on the factfinding trip would invade the aldermen's personal privacy, under Section 7(1)(b) of the Act; and (2) since the aldermen discussed the purchase of a piece of real estate during the trip and the negotiations are not yet complete, the records were withheld under Section 7(1)(s) of the Act.

The City Clerk's denial of my request was totally unjustified under the Freedom of Information Act. Section 7(1)(b) of the Act states that "disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy." Any purchases made by the aldermen that were charged to the city's taxpayers should be disclosed to the public. The definition of "public records" in Section 2(c) specifically includes the records I have requested. And, so far as I can tell, the records I have requested would not disclose details of any pending real estate purchase. In any event, Section 8 of the Act provides that non-exempt portions of any partially exempt documents must be disclosed.

As you know, your office has seven working days to respond to this appeal. If you need to contact me, I can be reached at (815) 555-5555.

Sincerely yours,

Woodward N. Bernstein

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