



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

August 26, 2026

PUBLIC ACCESS OPINION 26-010
(Request for Review 2026 PAC 94563)

FREEDOM OF INFORMATION ACT:
Withholding Communications Exchanged with
Third Party and Subsequently Sent to Attorney

Mr. Tim Novak
Chicago Sun-Times
848 East Grand Avenue
Chicago, Illinois 60611

Ms. Lexie Heinemann
Public Relations Representative
City of Chicago Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602

Dear Mr. Novak and Ms. Heinemann:

This is a binding opinion 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 2025 Supp.)). For the reasons discussed below, this office concludes that the City of Chicago (City) Department of Law (Department) improperly withheld records responsive to Mr. Tim Novak's April 20, 2026, FOIA request.

On April 20, 2026, Mr. Novak, on behalf of the *Chicago Sun-Times*, submitted a FOIA request to the Department and other City entities requesting copies of correspondence between the City's former Chief Operating Officer, Paul Goodrich, "and Robert Blackwell, Jr. of EKI-Digital, Electronic Knowledge Interchange and Killer Spin[]" between June 1, 2021, and May 31, 2023. Specifically, Mr. Novak sought any documents "involving contracts, work

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agreements, invoices involving Blackwell and/or his companies."¹ On May 8, 2026, the Department notified Mr. Novak that additional time was required to complete its search for and assessment of potentially responsive records.² On May 14, 2026, the Department further advised Mr. Novak that a document had been located and was undergoing an internal assessment to determine its responsiveness.³ On May 20, 2026, the Department denied Mr. Novak's request pursuant to section 7(1)(m) of FOIA,⁴ stating that the withheld records constituted privileged communications between an attorney and clients.⁵ On May 21, 2026, Mr. Novak submitted the above-referenced Request for Review disputing that denial; he argued that the Department "has provided no documentation to specify the name of the attorney and the attorney's clients, and why this information needs to be withheld from the taxpayers."⁶

On June 18, 2026, this office forwarded a copy of the Request for Review to the Department,⁷ along with a letter asking it to provide for this office's confidential review unredacted copies of the records that were withheld and a detailed explanation of the legal and factual bases for the applicability of the section 7(1)(m) exemption.⁸ On July 23, 2026, this office sent the Department a second request for a written response and the records responsive to

¹E-mail from Tim Novak, Reporter, Chicago Sun-Times, to Freedom of Information Officers, Office of the Mayor, Department of Procurement Services, Department of Law, City of Chicago (April 20, 2026).

²E-mail from Lexie Heinemann, Public Relations Representative, Administration, City of Chicago Department of Law, to troberts@suntimes.com and tnovak@suntimes.com (May 8, 2026).

³E-mail from Lexie Heinemann, Public Relations Representative, Administration, City of Chicago Department of Law, to troberts@suntimes.com and tnovak@suntimes.com (May 14, 2026).

⁴5 ILCS 140/7(1)(m) (West 2025 Supp.).

⁵FOIA portal message from Lexie Heinemann, Public Relations Representative, Department of Law, [City of Chicago], to Tim Novak (May 20, 2026).

⁶E-mail from Tim Novak, Reporter, Chicago Sun-Times, to Public Access Counselor, Office of the Attorney General, State of Illinois (May 21, 2026).

⁷E-mail from Michael G. Malik, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General, to [Lexie] Heinemann, [Public Relations Representative, Department of Law, City of Chicago] (June 18, 2026).

⁸Letter from Michael G. Malik, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Lexie Heinemann, Public Relations Representative, City of Chicago Department of Law (June 18, 2026).

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Mr. Novak's request.⁹ On July 29, 2026, the Department provided this office with those materials.¹⁰ On July 29, 2026, this office forwarded a copy of the Department's written response to Mr. Novak and notified him of his opportunity to reply.¹¹ On the same day, Mr. Novak replied.¹²

On July 30, 2026, this office extended the time for issuing a binding opinion by 30 business days, to September 21, 2026, pursuant to section 9.5(f) of FOIA.¹³

ANALYSIS

"All records in the custody or possession of a public body are presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2024); *see also Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). A public body that withholds or redacts records "has the burden of proving by clear and convincing evidence" that the information is exempt from disclosure. 5 ILCS 140/1.2 (West 2024). The exemptions from disclosure are to be narrowly construed. *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

Sections 7(1)(m) of FOIA

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

Communications *between a public body and an attorney*
* * * *representing the public body* that would not be subject to
discovery in litigation, and materials prepared or compiled by or
for a public body in anticipation of a criminal, civil, or

⁹E-mail from Michael G. Malik, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General, to [Lexie] Heinemann, [Public Relations Representative, Department of Law, City of Chicago] (July 23, 2026).

¹⁰E-mail from Lexie Heinemann, Public Relations Representative, Administration, City of Chicago Department of Law, to Michael Malik (July 29, 2026).

¹¹Letter from Michael G. Malik, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Tim Novak, *Chicago Sun-Times* (July 29, 2026).

¹²E-mail from Tim Novak, Reporter, *Chicago Sun-Times*, to [Michael] Malik (July 29, 2026).

¹³Letter from Michael G. Malik, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Ms. Lexie Heinemann, Public Relations Representative, City of Chicago Department of Law, and Tim Novak, *Chicago Sun-Times* (July 30, 2026).

administrative proceeding upon the request of an attorney advising
the public body[.] (Emphasis added.)

Section 7(1)(m) exempts communications protected by the attorney-client privilege. *People ex rel. Ulrich v. Stukel*, 294 Ill. App. 3d 193, 201 (1997). A party asserting that a confidential communication is protected by attorney-client privilege must show that "(1) a statement originated in confidence that it would not be disclosed; (2) it was made to an attorney acting in his legal capacity for the purpose of securing legal advice or services; and (3) it remained confidential." *Cangelosi v. Capasso*, 366 Ill. App. 3d 225, 228 (2006). "[T]he modern view is that the privilege is a two-way street, protecting both the client's communications to the attorney and the attorney's advice to the client." *People v. Radojcic*, 2013 IL 114197, ¶ 40. The Illinois Supreme Court has explained that a public body that withholds records pursuant to section 7(1)(m) "can meet its burden only by providing some *objective* indicia that the exemption is applicable under the circumstances." (Emphasis in original.) *Illinois Education Ass'n v. Illinois State Board of Education*, 204 Ill. 2d 456, 470 (2003).

The records Mr. Novak requested are messages and documents exchanged between EKI-Digital Chairman Robert Blackwell, Jr., and the City's then-Chief Operating Officer, Paul Goodrich, involving contracts with Blackwell or his companies. The Department's response to this office stated that those records were subsequently "received by an attorney for the City from a client-department as part of the client's seeking legal guidance. * * * Because these documents came into possession of an attorney from a client, they are protected by the attorney-client privilege and so [are] exempt from disclosure under section 7(1)(m)."¹⁴ In his reply, Mr. Novak characterized the City's response as "puzzling, considering these negotiations led the city to pay \$600,000 to settle \$9.6 million in claims filed by Robert Blackwell Jr. and EKI [Digital]."¹⁵

In *Johnson v. Frontier Ford, Inc.*, 68 Ill. App. 3d 315, 317 (1979), the Illinois Appellate Court addressed whether the attorney-client privilege protects pre-existing documents forwarded by a client to their attorney in connection with a request for legal advice. The court quoted with approval a treatise that reasoned such records are not protected unless the privilege otherwise applied before the attorney obtained them:

¹⁴Letter from Lexie Heinemann, FOIA Officer, Department of Law, [City of Chicago], to Michael Malik, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (July 29, 2026), at [3].

¹⁵E-mail from Tim Novak, Reporter, Chicago Sun-Times, to [Michael] Malik (July 29, 2026).

[A]dding to the privilege for communications a privilege against production of the pre-existing documents themselves, when they would be subject to production if still in the possession of the client, would be an intolerable obstruction to justice. To prevent the court's gaining access to a relevant document a party would only have to send it to his lawyer. So here the principle is controlling: if a document would be subject to an order for production if it were in the hands of the client it will be equally subject to such an order if it is in the hands of his attorney. (Emphasis in original.). Johnson, 68 Ill. App. 3d at 320 (quoting McCormick, Evidence § 89, at 184-85 (2d ed. 1972)).

Applying that principle, the court affirmed a contempt of court finding against an attorney involved in a discovery dispute who refused to submit to the court, for in camera review, an investigative file he received from his client. *Johnson*, 68 Ill. App. 3d at 321; *see also Heriot v. Byrne*, 257 F.R.D. 645, 656 (N.D. Ill. 2009) (the attorney-client privilege does not encompass messages that were exchanged with unprotected third parties and then forwarded to a client's attorney); *Burns v. Georgetown University Medical Center*, 106 F. Supp. 3d 238, 243 (D.D.C. 2015) ("[T]he email exchange is not privileged simply because the email was sent from Plaintiff's attorney to Plaintiff. Just because Plaintiff's attorney forwarded the email to her does not make the communication, which originated from a third-party, privileged.").

At the time they originated, the records at issue were not sent to an attorney for the purpose of securing legal advice or services or sent from an attorney providing legal advice. Instead, they were exchanged by the City's Chief Operating Officer and a third-party contractor for the City. Although the City states that a City attorney subsequently obtained the records from a client, the act of forwarding pre-existing records exchanged with a third-party to counsel while seeking legal advice does not transform those records into privileged attorney-client communications. Mr. Novak did not request communications exchanged between the client and any City attorneys who obtained the third-party communications; therefore, the only records responsive to the request and provided for this office's review do not reveal the substance of any requests for legal advice that may have been communicated by the client or any legal advice rendered by attorneys to that client. Because the withheld records did not originate in confidence between parties engaged in an attorney-client relationship and were not exchanged for the purpose of securing or providing legal advice, this office concludes that the Department has not sustained its burden of demonstrating that the records are exempt from disclosure pursuant to section 7(1)(m) 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 April 20, 2026, Mr. Tim Novak, on behalf of the *Chicago Sun-Times*, submitted a FOIA request to the City of Chicago Department of Law (Department) seeking copies of correspondence between former City Chief Operating Officer Paul Goodrich and a city contractor, Robert Blackwell, Jr., between June 1, 2021, and May 31, 2023.

2) On May 20, 2026, the Department denied Mr. Novak's request in its entirety pursuant to section 7(1)(m) of FOIA.

3) On May 21, 2026, Mr. Novak submitted the above-referenced Request for Review contesting the Department's denial of records responsive to his request.

4) On June 18, 2026, the Public Access Bureau sent a copy of the Request for Review to the Department and asked it to provide unredacted copies of the contested correspondence for this office's confidential review. This office also asked the Department to provide a detailed explanation of the factual and legal bases for denying those records.

5) On July 29, 2026, the City of Chicago Department of Law furnished the requested materials to this office.

6) On July 29, 2026, the Public Access Bureau forwarded a copy of the Department's written answer to Mr. Novak and notified him of his right to reply.

7) On July 29, 2026, Mr. Novak replied.

8) On July 30, 2026, the Public Access Bureau extended the time within which to issue a binding opinion by 30 business days pursuant to section 9.5(f) of FOIA. Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

9) Section 7(1)(m) of FOIA exempts from disclosure "[c]ommunications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies."

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10) The records at issue in this Request for Review consist of e-mails and related records exchanged by a City official and a contractor for the City. These communications did not originate in confidence between parties engaged in an attorney-client relationship, and they were not exchanged for the purpose of providing or securing legal advice or services.

11) The City asserts that a client subsequently sent these records to an attorney for the City for the purpose of securing legal advice. However, sending an attorney communications exchanged by a City employee and a third-party contractor for the City does not transform those records into privileged attorney-client communications.

Accordingly, this office concludes that the Department has not met its burden of proving that the communications are exempt from disclosure pursuant to section 7(1)(m) of FOIA. Therefore, it is the opinion of the Attorney General that the City of Chicago Department of Law improperly withheld the records responsive to Mr. Tim Novak's April 20, 2026, Freedom of Information Act request. Accordingly, the Department is hereby directed to take immediate and appropriate action to comply with this opinion by providing Mr. Novak with unredacted copies of the withheld records.

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 2024). 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 35 days of the date of this decision naming the Attorney General of Illinois and Mr. Tim Novak as defendants. *See* 5 ILCS 140/11.5 (West 2024).

Sincerely,

KWAME RAOUL
ATTORNEY GENERAL

By:



R. Douglas Rees
Chief Deputy Attorney General

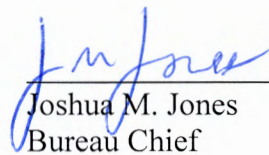
CERTIFICATE OF SERVICE

Joshua M. Jones, Bureau Chief, Public Access Bureau, Chicago, hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access Opinion 26-010) 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 August 26, 2026.


Joshua M. Jones
Bureau Chief

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