



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

June 24, 2025

PUBLIC ACCESS OPINION 25-007
(Request for Review 2025 PAC 85894)

OPEN MEETINGS ACT:
Informal Committee of
City is Subsidiary Body

Mr. Tom Riordan
1527 Eighth Street
Peru, Illinois 61354

Mr. Scott J. Schweickert
Corporation Counsel
City of Peru
1901 Fourth Street
Peru, Illinois 61354

Dear Mr. Riordan and Mr. Schweickert:

This binding opinion is issued by the Attorney General pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2024)). For the reasons discussed below, this office concludes that the City of Peru (City) Pool Committee (Committee) is a subsidiary body subject to the requirements of OMA.

BACKGROUND

On March 23, 2025, Mr. Tom Riordan submitted a Request for Review alleging that the Committee violated OMA by improperly holding private meetings:

500 South 2nd Street
Springfield, Illinois 62701
(217) 782-1090 • Fax: (217) 782-7046

115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-3000 • Fax: (312) 814-3806

1745 Innovation Drive, Suite C
Carbondale, Illinois 62903
(618) 529-6400 • Fax: (618) 529-6416

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The city of Peru has been holding committee meetings but they are closed to the public. The committee was appointed by the mayor[], contains city officials, and city citizens. It's to discuss building a new pool because we passed a referendum to instruct the city to build a pool. They've been meeting for several months now without access for the public to attend.^[1]

On March 24, 2025, Mr. Riordan further stated that the Committee met on March 10, 2025,² and several other times since the referendum passed in November 2024.³ He alleged that "[f]inancial reports were given on the status of the general fund as it pertains to a pool and use of tax dollars[,] and "[d]esigns and locations were discussed[,] but the Committee did not compile meeting minutes or otherwise adhere to the requirements of OMA.⁴

On March 26, 2025, the Public Access Bureau sent a copy of the Request for Review to City Mayor Ken Kolowski along with a letter⁵ requesting, for this office's confidential review, copies of any notices, agendas, minutes, and recordings of any Committee meetings that were held within 60 days of the submission of Mr. Riordan's Request for Review. This office also requested that the City provide a written response to Mr. Riordan's allegation that the Committee improperly held private meetings that were required to be open to the public pursuant to OMA. In particular, this office asked the City to address specific factors that courts have used to analyze whether an entity constitutes an advisory body or subsidiary body.⁶

On April 3, 2025, City Corporation Counsel Scott Schweickert provided this office with a written response, maintaining that the Committee is an "informal advisory

¹E-mail from Tom Riordan to Public Access [Bureau, Office of the Attorney General] (March 23, 2025).

²Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2024)) generally requires a Request for Review to be submitted "not later than 60 days after an alleged violation" of the Act. Because Mr. Riordan submitted his Request for Review within 60 days of the March 10, 2025, meeting, section 3.5(a) of OMA authorizes this office to review whether the Committee violated OMA.

³E-mail from Tom Riordan to Christopher Boggs, [Deputy Public Access Counselor, Public Access Bureau, Office of the Attorney General] (March 24, 2025).

⁴E-mail from Tom Riordan to Christopher Boggs, [Deputy Public Access Counselor, Public Access Bureau, Office of the Attorney General] (March 24, 2025).

⁵Letter from Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Ken Kolowski, Mayor, City of Peru (March 26, 2025), at 1-2.

⁶Letter from Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to The Honorable Ken Kolowski, Mayor, City of Peru (March 26, 2025), at 1-2.

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committee" that does not qualify as a subsidiary or advisory body.⁷ That same day, the Public Access Bureau forwarded a copy of the City's written response to Mr. Riordan and notified him of his opportunity to reply.⁸ On April 7, 2025, Mr. Riordan submitted a reply.⁹

On May 16, 2025, the Public Access Bureau extended the time in which to issue a binding opinion by 21 business days, to June 24, 2025, pursuant to section 3.5(e) of OMA.¹⁰

ANALYSIS

"In order that the people shall be informed, the General Assembly finds and declares that it is the intent of [OMA] to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2024).

Section 1.02 of OMA (5 ILCS 120/1.02 (West 2024)) defines the term "public body" to include, in relevant part:

[A]ll legislative, executive, administrative or advisory bodies of the State, 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, except the General Assembly and committees or commissions thereof. (Emphasis added.)

Under the plain language of this definition, committees of cities are subsidiary bodies subject to OMA. The City argues that the Committee has an informal nature that excludes it from the requirements of OMA. Accordingly, this office will examine the four primary factors that courts consider in determining whether an entity is a "subsidiary body" of a public body: "(1) the extent to which the entity has a legal existence independent of government

⁷Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 3.

⁸Letter from Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Tom Riordan (April 3, 2025).

⁹E-mail from Tom Riordan to [Katie] Goldsmith, [Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (April 7, 2025).

¹⁰Letter from Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Tom Riordan and Scott J. Schweickert, Corporation Counsel, City of Peru (May 16, 2025).

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resolution, (2) the degree of government control exerted over the entity, (3) the extent to which the entity is publicly funded, and (4) the nature of the functions performed by the entity." *Better Government Ass'n v. Illinois High School Ass'n*, 2017 IL 121124, ¶ 26. "[N]o single factor is determinative or conclusive, but as the definition indicates, the key distinguishing factors are government creation and control." *Better Government Ass'n*, 2017 IL 121124, ¶ 26.

While the City's response to this office did not include any materials documenting Committee meetings, the City did not dispute the allegation that the Committee had been meeting in private, including on March 10, 2025. The City explained the history of efforts to build a new City pool since 2013.¹¹ The City stated that replacing the municipal pool "has been a topic of significant public debate[.]" and that "[c]ertain community members, * * * colloquially known as 'Friends of the Peru Pool,' have advocated in favor of constructing a new municipal pool."¹² The City also explained that City residents approved an advisory referendum on the November 5, 2024, general election ballot that asked whether the City should construct and operate a municipal swimming pool funded by real estate tax revenue.¹³ The City explained that on November 18, 2024, the Committee of the Whole discussed the results of the referendum:

It was suggested that an informal committee be assembled to review pool studies and materials previously prepared for the City, to research and review other recently completed municipal pool projects in Illinois, and to generally perform a preliminary assessment of the potential designs, costs, and locations for a new municipal pool. This informal committee would then advise and present its recommendation to the City Council and public for a more focused and productive discussion.¹⁴

The minutes of the March 11, 2025, meeting of the Peru City Council state, in relevant part:

¹¹Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 1.

¹²Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 1.

¹³Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 1.

¹⁴Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 1-2.

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Alderman O'Sadnick reported the pool committee has been meeting once a week to continue to gather information along with working with Kmetz Architect and Director of Engineering and Zoning Eric Carls. Alderman O'Sadnick reported they are working toward the goal of having open meetings with findings. Alderman Moreno further asserted the meetings have been productive but not complete.^[15]

As additional background, Alderman O'Sadnick, who, as discussed further below, was named to the Committee by Mayor Kolowski, publicly posted an update about the Committee's activities on Facebook on March 14, 2025; his remarks included the following:

Last November, a city-wide referendum to build and pay for a municipal pool utilizing funds from Peru's hotel/motel tax revenue passed by a near 70-30 margin. The Council has now been obliged to address the issue. The Peru Pool Committee was formed.

* * * [T]here have not yet been any open meetings. Once we get to that point, the open meetings will be publicized, and all will be encouraged to attend and make their voices and suggestions heard. The committee has decided that having the meetings open to the public at this time would not be productive towards the final goal:

To produce and present a plan to responsibly build a municipal swimming pool that has a reasonable chance of getting at least four of the eight Aldermen to vote 'yes'.

In furtherance of that goal, the committee has been able to have blunt, honest and closed discussions regarding costs, financing, potential locations, maintenance, buildings, pool size, water features, lighting, lap lanes, fencing, shade from the sun, etcetera.^[16]

¹⁵[Peru] City Council, Regular Meeting, March 11, 2025, Minutes 1.

¹⁶Rick O'Sadnick – Alderman – Peru 3rd Ward, FACEBOOK (March 14, 2025), https://www.facebook.com/story.php?story_fbid=636836282645276&id=100089567296203&mibextid=wwXIf&rdid=d6Wf0oU5PIsCdyXs#.

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Alderman O'Sadnick further explained that "[t]he Committee has entered into an agreement with Kmetz Architects of LaSalle[]" to examine the location options and present potential layouts, and "[a]fter that happens, we should then have enough site and financial information to hold an open meeting to present to the citizens of Peru. That public input will then be valuable in finalizing our conclusions to present to the full City Council for a final vote[.]"¹⁷

Accordingly, the Committee has operated as if it may—but is not required to—hold meetings that are open to the public. This office will apply each factor that courts have recognized as relevant to whether an entity is a subsidiary body to determine whether the Committee should have complied with the requirements of OMA at its March 10, 2025, meeting, and must begin to do so.

The Committee's Legal Existence Independent of Government Resolution

Applying the first factor, the City acknowledged in its response to this office that the Committee does not have an independent legal existence.¹⁸ This factor weighs in favor of the Committee being a subsidiary body of the City, as the City convened the Committee and the Committee originated from the City's planning process for a new municipal pool. On the other hand, the City stated that no ordinance or resolution formally established the Committee.¹⁹ The City contended that the Committee is not subject to the requirements of OMA because it is an "informal advisory committee[.]"²⁰

The Illinois Supreme Court has concluded that mere informality does not render OMA inapplicable. *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191, 201 (1980). In *Difanis*, the Court rejected the argument that a gathering of a quorum of city council members at the home of one of the members before a scheduled city council meeting constituted an informal political caucus that was not subject to the requirements of OMA. *Difanis*, 83 Ill. 2d at 201. There was no agenda for the gathering, no votes were taken, city council members were not compensated for their time, and the discussion included party business and an upcoming election in addition to city council business. *Difanis*, 83 Ill. 2d at 198. Nevertheless, the Court held that the General

¹⁷Rick O'Sadnick – Alderman – Peru 3rd Ward, FACEBOOK (March 14, 2025), https://www.facebook.com/story.php?story_fbid=636836282645276&id=100089567296203&mibextid=wwXlfr&rid=d6Wf0oU5PIsCdyXs#.

¹⁸Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 3.

¹⁹Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 3.

²⁰Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 3.

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Assembly "intended to include unofficial or informal meetings within the coverage of the Act[,] and that "the Act was intended to apply to more than meetings of full bodies or duly constituted committees." *Difanis*, 83 Ill. 2d at 200-01. The Court emphasized that the purpose of OMA would be defeated if a public body could conduct public business without complying with the Act as long as it operated as a committee that had not been formalized through legislation. *Difanis*, 83 Ill. 2d at 201 ("[T]o allow the nine defendants to circumvent the Act simply because they designate their meeting as an informal gathering or informal caucus would be to thwart the intent of the Act."). Although *Difanis* concerned a meeting of the members of a city council, which was indisputably a public body, it is instructive that the Supreme Court recognized that labeling gatherings as informal does not shield deliberations about public business from the requirements of OMA.

Degree of City Control Over the Committee

With respect to the second factor—the degree of government control—the City contends that it does not control the Committee, characterizing it as "an independent group of volunteers interested in the construction of a new municipal swimming pool in the City of Peru."²¹ The City stated that Mayor Kolowski "informally appointed" to the Committee Ms. Sherry Mayszak, a member of the community who led the referendum effort for the municipal pool, and that the Committee consists of her, another private "citizen with experience operating a municipal swimming pool; Alderman Andy Moreno, Alderman Rick O'Sadnick, and Adam Thorson, the City's Director of Parks, Recreation and Special Events."²² The City claimed that it "maintain[ed] compliance with OMA[]" by having "no more than two elected officials" serve on the Committee.²³

This office has reviewed materials posted on the City's website,²⁴ including past City Council and various City committee meeting agendas and meeting minutes. The November 18, 2024, Committee of the Whole meeting minutes reflect that Mayor Kolowski "suggested forming a pool committee" and "said he would be the one deciding who would" serve on the Committee with Ms. Mayszak, noting that she was a former City alderwoman.²⁵ Additionally,

²¹Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 3.

²²Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 2.

²³Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 2; *See also* footnote 28.

²⁴City of Peru, Illinois, <https://www.peru.il.us/> (last visited June 7, 2025).

²⁵[Peru] Committee of a Whole, Meeting, November 18, 2024, Minutes 1-2.

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the City's Director of Engineering and Zoning, Eric Carls, explained that his "office would help support and facilitate the meetings and the process."²⁶ The November 25, 2024, Public Works Committee meeting minutes further reflect that the Mayor "named" to the Committee four of the five members identified by the City in its response to this office.²⁷

The Mayor's appointment of specific people to the Committee, albeit without a City Council vote, illustrates that the Committee's membership is controlled by the City. Notably, there is no assertion that the Mayor appointed the Committee to advise him individually, rather than the City Council. *See Pope v. Parkinson*, 48 Ill. App. 3d 797, 799 (1977) (committee of students and faculty selected by chancellor to advise him on administration of university arena not required to comply with OMA in part because the committee was not "accountable to, any public body of the State."). The inclusion of two alderpersons as well as the City's Director of Parks, Recreation and Special Events on the Committee—a quorum—reflects a degree of governmental control that is both significant and common for municipal committees.²⁸

The March 11, 2025, City Council meeting minutes also confirm that the Committee has been "working with Kmetz Architect[s] and Director of Engineering and Zoning Eric Carls."²⁹ Additionally, in its response to this office, the City acknowledged that the City's Director of Finance has met with members of the Committee "to provide information to assist them with fact-finding and information gathering."³⁰ The Committee's actions have led to the City Council's approval of a preliminary study for a municipal pool in the amount of \$7,500.³¹

Thus, City employees are involved in Committee meetings in multiple facets: finance, engineering and zoning, and parks and recreation, if not other areas. The Committee's recommendations are subject to the City Council's approval, as reflected by the City Council's approval of the pool study. The Committee is not a freestanding entity seeking to construct a

²⁶[Peru] Committee of a Whole, Meeting, November 18, 2024, Minutes 1.

²⁷Peru Public Works Committee, Meeting, November 25, 2024, Minutes 2.

²⁸The City's claim that it complied with OMA by having only two alderpersons on the Committee establishes only that the Committee's meetings did not qualify as City Council meetings, as two members of the City Council is less than a majority of a quorum of that public body. *See* 5 ILCS 120/1.02 (West 2024) (defining a "meeting" as "any gathering, * * * of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business.").

²⁹[Peru] City Council, Meeting, March 11, 2025, Minutes 2.

³⁰Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 2.

³¹[Peru] City Council, Meeting, February 10, 2025, Minutes 2.

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pool and exploring the City as one possible option for its location, funding, and development; the Committee's purpose concerns only a City pool, which is why City officials and administrators are directly involved and exercise control in a manner that would be uncharacteristic of a private enterprise. Accordingly, the information reviewed by this office reflects that the City does exert governmental control over the Committee.

Extent to Which the Committee is Publicly Funded

In its response to this office, the City asserted that the Committee is not publicly funded and that its members are unpaid volunteers. It is unclear whether the Committee uses any public resources for its activities such as by holding meetings on City property. Still, committees created and controlled by public bodies receive at least some indirect public funding by virtue of being part of that unit of government. Salaried city officials have devoted time to establishing the Committee and supporting its activities. For example, the Mayor appointed the members of the Committee and two members of the City Council as well as the City's Director of Parks, Recreation and Special Events serve on the Committee.

Nature of the Functions Performed by the Committee

In its response to this office, the City described the purpose of the Committee as "conduct[ing] the basic preliminary leg work to assess and recommend potential designs, features, costs, and locations for a new pool to present to the City Council and public for a more focused and productive discussion."³² Although the City did not specifically address whether the Committee performs governmental functions, the City acknowledged that the Committee is tasked with assessing the potential designs, costs, and locations for a new municipal pool. Exploring such options and reporting findings to the governing body of a municipality is a quintessential role of a municipal committee. The function of the Committee is inherently the type of work that is performed by the City as a corporate authority. Indeed, various City officials and employees participate in the Committee's meetings and activities. Additionally, the Illinois Municipal Code (65 ILCS 5/1-1 *et seq.* (West 2024)) provides that the development of a municipal pool is a governmental function:

The corporate authorities of the municipality, or the specified board when designated, has the power to provide, maintain, equip, and operate swimming pools as a part of such a recreation system or playgrounds or recreation centers in any public park or land or building dedicated or set apart as provided in this Division 95. The corporate authorities or the specified board

³²Letter from Scott J. Schweickert, Corporation Counsel, City of Peru, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (April 3, 2025), at 2.

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shall provide for the sanitation of these swimming pools and shall provide proper protection for the public in the use thereof. They may charge and collect reasonable fees for the use of these swimming pools to cover the cost of operation thereof. 65 ILCS 5/11-95-2 (West 2024).

Because the City is using the Committee to perform this function, the Committee's work is governmental in nature.

Based on the above application of the factors recognized as relevant by the Illinois Supreme Court in *Better Government Ass'n*—most notably the governmental function performed by the Committee and the degree of control exercised by the City—the Committee is a subsidiary body of the City that is subject to all of the requirements of OMA.³³

FINDINGS AND CONCLUSIONS

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

1) On March 23, 2025, Mr. Tom Riordan submitted a Request for Review alleging that the Committee improperly held meetings that did not comply with the requirements of OMA. Mr. Riordan alleged that the Committee held one such improper meeting on March 10, 2025. It is undisputed that Mr. Riordan's Request for Review was timely filed and otherwise complies with the requirements of section 3.5(a) of OMA.

2) On March 26, 2025, the Public Access Bureau sent a copy of the Request for Review to the City. The Public Access Bureau also sent the City a letter requesting copies of any notices, agendas, minutes (in draft form if necessary), and recordings of any meetings that occurred within the 60 days before Mr. Riordan submitted his Request for Review. The inquiry letter also requested a detailed written answer to the allegation that the Committee improperly held meetings that were not open to the public in accordance with OMA during that time period.

3) On April 3, 2025, the City Corporation Counsel provided this office with a written answer.

4) On April 3, 2025, the Public Access Bureau forwarded a copy of the City's written answer to Mr. Riordan and notified him of his opportunity to reply. On April 7, 2025, Mr. Riordan submitted a reply.

³³Because the Committee is a subsidiary body subject to the requirements of OMA, this office need not analyze whether the Committee is also an advisory body.

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5) On May 16, 2025, the Public Access Bureau properly extended the time within which to issue a binding opinion by 21 business days, to June 24, 2025, pursuant to section 3.5(e) of OMA. Therefore, the Attorney General may properly issue a binding opinion with respect to this matter.

6) A "public body" for purposes of OMA is defined to include advisory and subsidiary bodies of cities, such as committees.

7) The Committee has held multiple meetings, including one on March 10, 2025, since City residents voted in the November 2024 general election to approve a referendum supporting the development of a City-owned pool. It is undisputed that the Committee meetings have not been open to the public.

8) Based on an analysis of the factors that the Illinois Supreme Court recognized as relevant in *Better Government Ass'n*, the Committee is a subsidiary body of the City and therefore must follow all of the requirements of OMA, including providing advance notice of its meetings (5 ILCS 120/2.02 (West 2024)), keeping written minutes (5 ILCS 120/2.06(a) (West 2024)), and providing members of the public with an opportunity to address Committee members (5 ILCS 120/2.06(g) (West 2024)).

9) Accordingly, the Attorney General concludes that the Committee violated the requirements of OMA in connection with the March 10, 2025, meeting, by not complying with the requirements of OMA.

In accordance with these findings of fact and conclusions of law, the Committee is directed to take immediate and appropriate action to comply with this opinion by taking measures to ensure all future meetings comply with the requirements of OMA, including properly posting meeting notices and agendas, allowing opportunity for public comment, and preparing meeting minutes. Committee members shall also complete the OMA electronic training curriculum. 5 ILCS 120/1.05(b) (West 2024).

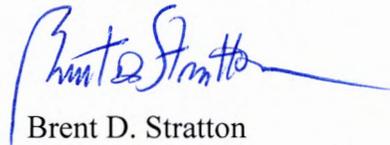
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This opinion shall be considered a final decision of an administrative agency for the purpose of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2024). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review in the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision, naming the Attorney General of Illinois and Mr. Tom Riordan as defendants. *See* 5 ILCS 120/7.5 (West 2024).

Very truly yours,

KWAME RAOUL
ATTORNEY GENERAL

By:



Brent D. Stratton
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

Steve Silverman, Deputy Division Chief, Public Access & Opinions Division,
hereby certifies that he has served a copy of the foregoing Binding Opinion (Public Access
Opinion 25-007) upon:

Mr. Tom Riordan
1527 Eighth Street
Peru, Illinois 61354
mrplowinc@comcast.net

Mr. Scott J. Schweickert
Corporation Counsel
City of Peru
1901 Fourth Street
Peru, Illinois 61354
sschweickert@peru.il.us

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 24, 2025.



Steve Silverman
Deputy Division Chief

Steve Silverman
Deputy Division Chief
Public Access & Opinions Division
Office of the Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-6756