



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 2, 2025

PUBLIC ACCESS OPINION 25-012
(Request for Review 2025 PAC 87009)

FREEDOM OF INFORMATION ACT:
Construction-Related Technical Documents
for Projects Not Built with Public Funds
Are Exempt from Disclosure under Section 7(1)(k)

Mr. Jeffrey Becker
7600 West Monee-Manhattan Road
Monee, Illinois 60449

Mr. Colin Duesing
FOIA Officer
Will County Land Use Department
58 East Clinton Street, Suite 100
Joliet, Illinois 60432

Dear Mr. Becker and Mr. Duesing:

This binding opinion is issued by the Attorney General pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2024)). For the reasons discussed below, this office concludes that the Will County Land Use Department (Department) did not violate FOIA by withholding engineers' technical submissions related to a proposed commercial solar facility in response to Mr. Jeffrey Becker's May 20, 2025, FOIA request.

BACKGROUND

On May 20, 2025, Mr. Becker submitted a FOIA request to the Department seeking a copy of "the filed application, with all of its related documents, submitted by Possibility Place Nursery, Tristan Shaw or a Shaw family member, Zaroka Solar LLC, or

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Cultivate Power, LLC for a Special Use Permit for a Commercial Solar Energy facility, located at 7548 West Monee-Manhattan Rd. Monee IL 60449."¹ On May 21, 2025, the Department granted the request in part and denied the request in part. The Department disclosed copies of numerous responsive records, such as an application, data sheets, studies, letters, reports, deeds, and agreements, but made certain redactions under sections 7(1)(b), 7(1)(d), 7(1)(f), 7(1)(g), and 7(1)(k) of FOIA;² the Department also withheld two records in their entirety pursuant to section 7(1)(k). Specifically, the Department stated:

Documents removed in their entirety in accordance with Section 7(1)(k) include:

- Project # 02500376.001 by Farnsworth Group of Lisle, Illinois
- Project # 268262051 by Kimley Horn of Deerfield, Illinois

These documents, or their subsequent replacement/revisions, may become part of the public record during the public approval process. If entered into the public record at that time, they may be requested for public review.³

On May 23, 2025, Mr. Becker submitted a Request for Review contesting the Department's assertion of section 7(1)(k) to withhold those two records. Specifically, he contended that:

The Department has failed to set forth any basis on which the disclosure of these reports regarding the design of a proposed solar facility on agricultural land "would compromise security." Unlike all of the government buildings and large enclosed structures specifically enumerated in subsection (k), there are no buildings involved in this project. Moreover, the Department has already disclosed, as a part of its FOIA response, the precise identity of the transformers and utility-scale inverters to be employed in the project. If there were any security concerns, these components would not have been publicly disclosed. In short, there is nothing in these engineering designs that would "compromise security" if disclosed. The proposed solar facility will be conspicuous to everyone in the area and will be composed of thousands of solar panels mounted on frames.

¹Freedom of Information Act Request Form, Will County Land Use Department, submitted by Jeffrey Becker to Will County Land Use Department (May 20, 2025).

² 5 ILCS 140/7(1)(b), (1)(d), (1)(f), (1)(g) (1)(k) (West 2024).

³E-mail from Colin Duesing, Certified FOIA Officer, to Jeffrey Becker (May 21, 2025).

If there is any portion of these that "would compromise security," the Department has failed to identify it. And even if there were conceivably something in the reports that would compromise security, the plain language of subsection (k) permits the Department to withhold the contents of the reports "only to the extent that disclosure would compromise security."^[4]

On June 3, 2025, the Public Access Bureau sent a copy of the Request for Review to the Department. The Public Access Bureau also sent the Department a letter requesting unredacted copies of the withheld records for this office's confidential review and a detailed written explanation of the legal and factual bases for the applicability of the asserted exemption.⁵

On June 5, 2025, the Department provided this office with the requested materials, maintaining that it properly withheld the disputed records under section 7(1)(k) of FOIA.⁶ On the same date, this office forwarded a copy of the Department's answer to Mr. Becker and notified him of his opportunity to reply in writing.⁷ He did not submit a written reply. On June 9, 2025, the Department sent this office and Mr. Becker a brief e-mail clarifying a portion of its answer.⁸

On July 21, 2025, this office extended the time for issuing a binding opinion by 30 business days, to September 3, 2025, pursuant to section 9.5(f) of FOIA.⁹

⁴Letter from Jeffrey Becker to Public Access Counselor, Office of the Attorney General (May 23, 2025), at 2.

⁵Letter from Matt Goodman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Colin Duesing, FOIA Officer, Will County Land Use Department (June 3, 2025).

⁶E-mail from Colin Duesing, Certified FOIA Officer, [Will County Land Use Department], to [Matt] Goodman, [Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (June 5, 2025).

⁷Letter from Matt Goodman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Jeffrey Becker (June 5, 2025).

⁸E-mail from Colin Duesing Certified FOIA Officer, [Will County Land Use Department], to [Matt Goodman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General] and [Jeffrey Becker] (June 9, 2025).

⁹Letter from Matt Goodman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General, to Jeffrey Becker and Colin Duesing, FOIA Officer, Will County Land Use Department (July 21, 2025).

ANALYSIS

In section 1 of FOIA (5 ILCS 140/1 (West 2024)), "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." Accordingly, courts have explained that "the core purpose of the FOIA is to expose what the government is doing, not what its private citizens are up to." *Chicago Alliance for Neighborhood Safety v. City of Chicago*, 348 Ill. App. 3d 188, 211 (2004) (quoting *Lakin Law Firm, P.C. v. F.T.C.*, 352 F.3d 1122, 1124 (7th Cir. 2003)). Section 1.2 of FOIA (5 ILCS 140/1.2 (West 2024)) provides that "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt."

Section 7(1)(k) of FOIA

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

Architects' plans, engineers' technical submissions, and other construction related technical documents for **projects not constructed or developed in whole or in part with public funds** and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security. (Emphasis added.)

In its response to this office, the Department stated that the withheld responsive records "are '*engineers' technical submissions and other construction related technical documents*' and neither are '*projects not constructed or developed in whole or in part with public funds*.'"¹⁰ (Emphasis in original.) Later, the Department clarified for this office and Mr. Becker that it had "inadvertently created a double negative regarding the funding sources of the project in question[,] adding that "the documents withheld in their entirety are NOT funded 'in whole or in part' by public monies."¹¹ (Emphasis in original.) The Department, which copied Mr. Becker

¹⁰E-mail from Colin Duesing, Certified FOIA Officer, [Will County Land Use Department], to [Matt] Goodman, [Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (June 5, 2025).

¹¹E-mail from Colin Duesing, Certified FOIA Officer, [Will County Land Use Department], to [Matt Goodman, Assistant Attorney General, Public Access Bureau, Office of the Attorney General] and [Jeffrey Becker] (June 9, 2025).

on its June 5, 2025, response to this office, attached a copy of a staff review letter and stated that it "indicates the zoning application in question is not complete and the permit fees have not been submitted."¹² The staff review letter from the Department to the special use applicant enumerated 17 items that must be submitted or addressed for the zoning case to proceed to a public hearing.¹³ The Department's response to this office further stated: "As mentioned in the FOIA response, the documents in question, once any revisions have been received, the application completed, and submitted for Public Hearing, will probably be included within the staff report and would not require a FOIA request to review them in the future."¹⁴

Mr. Becker's Request for Review did not contend that the Department improperly redacted any of the disclosed records, nor did it contend that the proposed solar facility project is to be constructed with public funds. Instead, Mr. Becker contended that the two withheld construction-related technical documents are not exempt under section 7(1)(k) because the Department did not demonstrate that disclosure of the records would compromise security.

In construing a statute, the primary objective is to ascertain and give effect to the intent of the General Assembly. *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 415 (2006). "[T]he surest and most reliable indicator of" legislative intent "is the statutory language itself, given its plain and ordinary meaning." *Board of Education of Springfield School District No. 186 v. Attorney General of Illinois*, 2017 IL 120343, ¶ 24. "Moreover, statutory provisions should be read so that no term is rendered superfluous or meaningless." *Chapman v. Chicago Department of Finance*, 2023 IL 128300, ¶ 29.

Section 7(1)(k) exempts two categories of records: (1) architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds; and (2) the same records for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security. Under the plain language of section 7(1)(k), the clause that permits a public body to withhold records when disclosure would compromise security applies only to projects constructed or developed in whole or in part with public funds. Interpreting section 7(1)(k) to apply the "compromise security" element to projects built with solely private funds would render the bulk of the exemption superfluous; there would be no reason to separately discuss public and private funds, and the language of the exemption could be limited to

¹²E-mail from Colin Duesing, Certified FOIA Officer, [Will County Land Use Department], to [Matt] Goodman, [Assistant Attorney General, Public Access Bureau, Office of the Attorney General] (June 5, 2025).

¹³Letter from Ashlyn Kirby, Development Analyst I, Will County Illinois Land Use Department, to Emily Carroll (May 21, 2025).

¹⁴E-mail from Colin Duesing, Certified FOIA Officer, [Will County Land Use Department], to [Matt] Goodman, [Assistant Attorney General, Public Access Bureau] (June 5, 2025).

"[a]rchitects' plans, engineers' technical submissions, and other construction related technical documents, but only to the extent that disclosure would compromise security." Plainly, the General Assembly chose to apply different standards to projects constructed or developed in whole or in part with public funds as opposed to projects that did not receive public funding, in keeping with FOIA's purpose of ensuring 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."¹⁵ The General Assembly chose to make building plans for publicly funded buildings public to the extent disclosure would not compromise security, while creating a blanket exemption for privately-funded building plans.

As noted above, in response to Mr. Becker's FOIA request, the Department disclosed a substantial volume of records pertaining to the private party seeking to develop the proposed solar farm and the governmental review of the project. The Department withheld only two documents from Mr. Becker, and this office's confidential review confirmed that the withheld documents are construction-related technical documents commissioned by the private company pursuing this commercial solar farm. It is these types of records, whether for private homeowners or larger-scale private developers, that section 7(1)(k) is intended to protect. Because public funds are not being used to construct or develop the project, the plain language of section 7(1)(k) exempts those records from disclosure regardless of whether disclosure would compromise security.

Accordingly, the Department has sustained its burden of proving by clear and convincing evidence that the contested records are exempt from disclosure under section 7(1)(k) 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 May 20, 2025, Mr. Jeffrey Becker submitted a FOIA request to the Will County Land Use Department seeking copies of records pertaining to the proposed development of a private solar facility.
- 2) On May 21, 2025, the Department granted the request in part but, in relevant part, denied two construction-related technical documents pursuant to section 7(1)(k) of FOIA.
- 3) On May 23, 2025, Mr. Becker submitted a Request for Review contesting the Department's denial of two construction-related technical documents. The Request for Review

¹⁵ ILCS 140/1 (West 2024).

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was timely filed and otherwise complies with the requirements of section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2024)).

4) On June 3, 2025, the Public Access Bureau forwarded a copy of the Request for Review to the Department and asked it to provide unredacted copies of the disputed records for this office's confidential review, together with a written explanation of the factual and legal basis for the applicability of section 7(1)(k).

5) On June 5, 2025, the Department provided this office with unredacted copies of the withheld records and its written explanation. On the same date, the Public Access Bureau forwarded a copy of that answer to Mr. Becker and notified him of his opportunity to reply to that answer. On June 9, 2025, the Department sent this office and Mr. Becker an e-mail correcting a scrivener's error in its response. Mr. Becker did not submit a reply.

6) On July 21, 2025, the Public Access Bureau extended the time within which to issue a binding opinion by 30 business days, to September 3, 2025, pursuant to section 9.5(f) of FOIA. Accordingly, the Attorney General may properly issue a binding opinion with respect to this matter.

7) Section 7(1)(k) of FOIA exempts from disclosure "[a]rchitects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds[.]" The exemption applies to the same type of records "for projects construed or developed with public funds, * * *, but only to the extent that disclosure would compromise security."

8) The Department sustained its burden by proving by clear and convincing evidence that the section 7(1)(k) exemption applies because the withheld records are construction-related technical documents pertaining to a project that will not be constructed or developed with public funds.

Therefore, it is the opinion of the Attorney General that the Will County Land Use Department did not violate the requirements of FOIA by partially denying Mr. Jeffrey Becker's Freedom of Information Act request as to those two records.

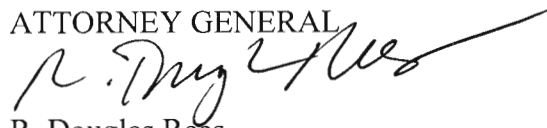
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This opinion shall be considered a final decision of an administrative agency for the purposes of administrative review under the Administrative Review Law. 735 ILCS 5/3-101 *et seq.* (West 2024). An aggrieved party may obtain judicial review of the decision by filing a complaint for administrative review with the Circuit Court of Cook County or Sangamon County within 35 days of the date of this decision naming the Attorney General of Illinois and the Will County Land Use Department as defendants. *See* 5 ILCS 140/11.5 (West 2024).

Sincerely,

KWAME RAOUL
ATTORNEY GENERAL

By:

A handwritten signature in black ink, appearing to read "R. Douglas Rees", is written over the printed name of the Chief Deputy Attorney General.

R. Douglas Rees
Chief Deputy Attorney General

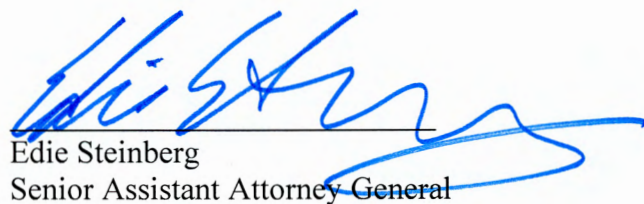
CERTIFICATE OF SERVICE

Edie Steinberg, Senior Assistant Attorney General, Public Access Bureau, hereby certifies that she has served a copy of the foregoing Binding Opinion (Public Access Opinion 25-012) 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 September 2, 2025.



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Senior Assistant Attorney General

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