



Better Government Association Statement: Supreme Court FOIA Ruling Limits Transparency; Significantly Broadens Exemptions to FOIA

Description

A unanimous Illinois Supreme Court ruling yesterday in a case called *Chapman v. Chicago* reverses a lower court's ruling and blocks plaintiff Matt Chapman's open records request for information from the City of Chicago's Department of Finance. The court's ruling undermines the public's right to know about the workings of government and is a threat to research, journalism and the public interest.

The Better Government Association, Illinois's leading defender of the right of access to public records, will work to address this change in the law, in an effort to protect the ability of residents of the state to effectively hold their government accountable.

At a time when the need for government accountability is greater than ever, the Illinois Supreme Court with this ruling has taken a step backward. The language of the court's ruling may seem narrow, but its implications are vast," said David Greising, president of the Better Government Association. "The ruling will have the effect of blocking access to public records. They are called public records for a reason, and creating hurdles to access is not in the public interest. The BGA's policy team will work with good-government protectors in the General Assembly to develop legislation that will repair the damage done by the Supreme Court's ruling."

The court's decision hinges on an exemption to Illinois's Freedom of Information Act that allows governments to deny access to technical information "that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section." Data sets covered by the exemption include software, operating protocols, computer program abstracts, file layouts, and other information.

The Cook County circuit court had previously ruled that each type of information specified in the exemption was subject to the modifying language "if disclosed, would jeopardize the security of the system." In the opinion of that court, the City of Chicago did not adequately demonstrate that the requested database information would jeopardize the system's security, and therefore the request was not exempt from FOIA.

The Supreme Court reversed the ruling, holding that the “security of the system” clause only applies to the phrase “any other information,” and that “file layouts” and other specifically named types of information are automatically and entirely exempted from FOIA. Relying on a dictionary definition rather than standard data science conventions, the court determined that Chapman’s requested information constituted a “file layout,” and was therefore exempt from FOIA.

Matt Topic, a lawyer for the plaintiff stated: “No purpose is served by withholding technical information from the public when no harm will come from its release, and it is critically important that researchers, journalists, and others have robust access to non-identifying information about government databases. For that reason, similar information about federal databases is publicly available on a federal website. The General Assembly should follow suit and amend this exemption to ensure public access unless a harm can be demonstrated from its release.” Topic is an expert in Freedom of Information Act law and serves as BGA Outside General Counsel.

Chapman’s public records request sought an index of tables and columns from a City of Chicago Department of Finance database. Database indexes such as the one sought by Chapman’s request are used to query and sort specific subsets of information from large databases, and are a fundamental tool of data analysis and management.

Vast amounts of public data are stored in databases like the one at issue in *Chapman v. Chicago*. By allowing governments to deny public records requesters the indexing tools needed to substantively analyze that data, the Supreme Court restricts the power of the state’s Freedom of Information Act.

The ruling’s broad language, which unlike the circuit court’s interpretation exempts all listed categories of records regardless of their security implications, could lead to a dangerous and significant expansion of the government’s ability to deny routine information.

“We are ready to work with the legislature to ensure more access, not less to public records,” said Bryan Zarou, Director of Policy at BGA Policy. The Better Government Association’s Policy Team’s state policy agenda [calls for database schema and structures to be explicitly included under FOIA](#). The organization plans to work with supportive legislators to amend the statutory language to clarify that information requests such as Chapman’s are in the public interest and not exempt from FOIA.

The Better Government Association is a 99-year-old civic watchdog that seeks better government through investigative journalism, policy reforms and civic engagement efforts that lead to more open, equitable and accountable government. The policy team and investigative unit operate independently of one another, while both seek to advance the cause of better government in Chicago and across Illinois.