

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

NIKLAS HUNDER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CHICAGO TRANSIT AUTHORITY,	)	
	)	
Defendant.	)	

**COMPLAINT**

1. NOW COMES Plaintiff NIKLAS HUNDER who brings this suit to overturn CHICAGO TRANSIT AUTHORITY's willful violation of the Illinois Freedom of Information Act in its refusal to conduct a reasonable search, issue a determination, and produce records regarding bus lane improvements and rail staff headcount in Chicago. In support of the Complaint, NIKLAS HUNDER states as follows:

**INTRODUCTION**

2. Pursuant to the fundamental philosophy of the American constitutional form of government, it is 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 the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

3. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

4. Under 5 ILCS 140/1.2, “[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.” 5 ILCS 140/1.2.

5. Under 5 ILCS 140/3(d), “Each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. Denial shall be in writing as provided in Section 9 of this Act. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. A public body that fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. A public body that fails to respond to a request received may not treat the request as unduly burdensome under subsection (g).”

6. Under 5 ILCS 140/3(e), “The time for response under this Section may be extended by the public body for not more than 5 business days from the original due date.”

7. Under 5 ILCS 140/3(f), “When additional time is required for any of the above reasons, the public body shall, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming.”

## **PARTIES**

8. Plaintiff NIKLAS HUNDER made the FOIA requests at issue in this case.

9. Defendant CHICAGO TRANSIT AUTHORITY (“CTA”) is a public body located in Cook County, Illinois.

## **MAY 28th, 2024 FOIA REQUEST**

10. On May 28th, 2024, NIKLAS HUNDER submitted a FOIA request to CTA for the following:

“Architectural/Engineering or any drawings/documents created showing the implementation/design of Bus Rapid Transit lanes/markings on Ashland Avenue between Cermak and Irving Park. Such drawings may include design features such as transit signal priority. Also, search for documents indicating a construction plan or documents that indicate the start and completion date of this project. An example of these documents are those made by reference from CDOT employee Dave Smith during an online meeting about Belmont bike lanes on 5/16/24.

Also search for any documents meeting the previous description for any lines identified by the Better Streets for Busses plan.

In the files provided, records in file types (but not limited to) .dwg, .dxf, .dwt, .dws, .obj, .dae, .fbx, .3ds, .rvt, .txt, or any raster image should be provided in addition to any image formats or .pdf formats.

The time frame for responsive records can extend from 1/1/2011 to the date of filing.”

11. On June 4th, 2024, CTA acknowledged receipt of the request, assigned reference number FOIA 2024-0584 to the matter, and notified NIKLAS HUNDER under 5 ILCS 140/3(e) that it was extending CTA’s time to respond to his request by 5 business days to June 11<sup>th</sup>, 2024.

12. A true and correct copy of the acknowledgement/extension letter quoting the request is attached as Exhibit 1.

13. As of the date of this filing, CTA has failed to comply with FOIA and has not produced records responsive to the request.

14. From May 28th, 2024, continuing to present, CTA has been aware of FOIA’s statutory deadlines pertaining to the request.

15. All public bodies are required to take annual Public Access Counselor trainings.

16. The PAC training for the year of and year preceding the request in this case indicate the deadlines to respond to requests.

17. Upon information and belief, defendant's FOIA officer took the required PAC training prior to the deadline to respond to the request.

### **JUNE 3RD, 2024 FOIA REQUEST**

18. On June 3rd, 2024, NIKLAS HUNDER submitted a FOIA request to CTA for the following:

“When a Rail Operator or Rail Manager training class took place or is scheduled to take place in 2024.

How many employees were enrolled in each unique class, how many passed the class, and what positions those who passed were hired into (RTO, CSO, CRO, extra board, tower workers, signal operations, etc.) broken down by month. Records matching the previous definition but not showing the monthly breakdown should still be provided.

Headcount of all rail operations staff per month broken down by Rapid Transit Operator, Combined Rail Operator, Combined Service Operator, Switch Worker, Tower Worker, and Extra Board.

How many of each position were either terminated or resigned for each month and how many employees were hired into any of those positions by month. Records should show the reason for terminating an employee (not just any reason an employee could be terminated). Records matching the previous definition but not providing a monthly breakdown should still be provided.

For the first part, one type of matching record would be titled "rapid transit operator initial training class" followed by the class number.

For items two to four, CTA has this type of record in its HR records as demonstrated in its response to 2024-0193.

For Items three and four, CTA provided similar data in its response to 2023-1139.

The time frame for responsive records can extend from 1/1/2024 to 10 days before the fulfillment of this request.”

19. On June 10th, 2024, CTA acknowledged receipt of the request, assigned reference number FOIA 2024-0607 to the matter, and notified NIKLAS HUNDER under 5 ILCS 140/3(e) that it was extending CTA’s time to respond to his request by 5 business days to June 17<sup>th</sup>, 2024.

20. A true and correct copy of the acknowledgement/extension letter quoting the request is attached as Exhibit 2.
21. As of the date of this filing, CTA has failed to comply with FOIA and has not produced records responsive to the request.
22. From June 3rd, 2024, continuing to present, CTA has been aware of FOIA's statutory deadlines pertaining to the request.
23. All public bodies are required to take annual Public Access Counselor trainings.
24. The PAC training for the year of and year preceding the request in this case indicate the deadlines to respond to requests.
25. Upon information and belief, defendant's FOIA officer took the required PAC training prior to the deadline to respond to the request.

**COUNT I – MAY 28th, 2024 FOIA REQUEST  
CTA'S FOIA VIOLATION**

26. Paragraphs 10-17, above, are incorporated by reference.
27. CTA is a public body under FOIA.
28. The records sought in the FOIA request include non-exempt public records or non-exempt sections of public records of CTA.
29. CTA has failed to adequately search for records responsive to the request.
30. CTA violated FOIA by failing to produce records responsive to the request by the required extended deadline.
31. CTA willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

**WHEREFORE**, NIKLAS HUNDER asks that the Court:

- i. declare that CTA has violated FOIA;
- ii. order CTA to conduct an adequate search for the requested records;
- iii. order CTA to produce all non-exempt portions of the requested records;
- iv. enjoin CTA from withholding non-exempt public records under FOIA;
- v. order CTA to pay civil penalties;
- vi. grant remedial injunctive relief requiring CTA to comply with FOIA deadlines and monitoring its compliance; and
- vii. award such other relief the Court considers appropriate.

**COUNT II –JUNE 3RD, 2024 FOIA REQUEST  
CTA’S FOIA VIOLATION**

32. Paragraphs 18-25, above, are incorporated by reference.
33. CTA is a public body under FOIA.
34. The records sought in the FOIA request include non-exempt public records or non-exempt sections of public records of CTA.
35. CTA has failed to adequately search for records responsive to the request.
36. CTA violated FOIA by failing to produce records responsive to the request by the required extended deadline.
37. CTA willfully and intentionally, or otherwise in bad faith failed to comply with FOIA.

**WHEREFORE**, NIKLAS HUNDER asks that the Court:

- i. declare that CTA has violated FOIA;
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- iii. order CTA to produce all non-exempt portions of the requested records;

- iv. enjoin CTA from withholding non-exempt public records under FOIA;
- v. order CTA to pay civil penalties;
- vi. grant remedial injunctive relief requiring CTA to comply with FOIA deadlines and monitoring its compliance; and
- vii. award such other relief the Court considers appropriate.

Dated: June 23, 2024

RESPECTFULLY SUBMITTED,  
/s/ Niklas Hunder

Niklas Hunder  
Policy Analyst/Researcher

## Exhibit 1





June 4, 2024

**Via Electronic Mail**

Hunder, Nik  
NIK HUNDER LEED GREEN ASSOC.  
[REDACTED]

**Re: Freedom of Information Act Request – FOIA 2024-0584**

Dear Mr. Hunder,

This letter responds to your Freedom of Information Act (“FOIA”) request to the Chicago Transit Authority (“CTA”) that seeks the following:

Seeking: Architectural/Engineering or any drawings/documents created showing the implementation/design of Bus Rapid Transit lanes/markings on Ashland Avenue between Cermak and Irving Park. Such drawings may include design features such as transit signal priority. Also, search for documents indicating a construction plan or documents that indicate the start and completion date of this project. Note: Documents that may be easiest to search for are those made by reference from CDOT employee Dave Smith during an online meeting about Belmont bike lanes on 5/16/24.

Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days, excluding weekends and state holidays, for a limited number of reasons. 5 ILCS 140/3(e). We are extending the time to respond to your request by 5 business days, to **June 11, 2024**, for the following reasons:

- There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of CTA having a substantial interest in the determination or in the subject matter of the request. 5 ILCS 140/3(e)(vii).

Please contact me if you have any questions regarding your FOIA request to CTA.

Sincerely,

Haley Lowrance  
Associate Attorney  
Compliance, Policy, and Risk

## Exhibit 2



June 10, 2024

**Via Electronic Mail**

Nik Hunder  
LEED GREEN ASSOC.  
Policy Analyst/Researcher  
Fabrication Engineer  
[REDACTED]

**Re: Freedom of Information Act Request – FOIA 2024-0607**

Dear Mr. Hunder,

This letter responds to your Freedom of Information Act (“FOIA”) request to the Chicago Transit Authority (“CTA”) that seeks the following:

Search for recordings showing:

- When a Rail Operator or Rail Manager training class took place or is scheduled to take place in 2024.
- How many employees were enrolled in each unique class, how many passed the class, and what positions those who passed were hired into (RTO, CSO, CRO, extra board, tower workers, signal operations, etc.) broken down by month. Records matching the previous definition but not showing the monthly breakdown should still be provided.
- Headcount of all rail operations staff per month broken down by Rapid Transit Operator, Combined Rail Operator, Combined Service Operator, Switch Worker, Tower Worker, and Extra Board.
- How many of each position were either terminated or resigned for each month and how many employees were hired into any of those positions by month. Records should show the reason for terminating an employee (not just any reason an employee could be terminated). Records matching the previous definition but not providing a monthly breakdown should still be provided.

For the first part, one type of matching record would be titled "rapid transit operator initial training class" followed by the class number.

For items two to four, CTA has this type of record in its HR records as demonstrated in its response to 2024-0193.

For Items three and four, CTA provided similar data in its response to 2023-1139. The time frame for responsive records can extend from 1/1/2024 to 10 days before the fulfillment of this request.

Under the Freedom of Information Act, a public body may extend the time to respond to a FOIA request by up to 5 business days, excluding weekends and state holidays, for a limited number of reasons. 5 ILCS 140/3(e). We are extending the time to respond to your request by 5 business days, to **June 17, 2024**, for the following reasons:

- There is a need for consultation, which shall be conducted with all practicable speed, among two or more components of CTA having a substantial interest in the determination or in the subject matter of the request. *See* 5 ILCS 140/3(e)(vii).

Please contact me if you have any questions regarding your FOIA request to CTA.

Sincerely,

Brigett R. Bevan  
Managing Attorney  
Compliance, Policy and Risk