

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

<b>BETTER GOV'T ASSOCIATION,</b>	)	
	)	
Plaintiff,	)	
	)	<b>No. 15 CH 15674</b>
v.	)	
	)	<b>Hon. Sophia H. Hall</b>
<b>CITY OF CHICAGO MAYOR'S OFFICE,</b>	)	
	)	
Defendant.	)	

**RELEASE AND SETTLEMENT AGREEMENT**

Plaintiff, Better Government Association, represented by Loevy & Loevy, and defendant, City of Chicago Mayor's Office, by its attorney, Stephen R. Patton, Corporation Counsel of the City of Chicago, herein stipulate and agree to the following:

1. This action was brought by the Better Government Association ("BGA") against the City of Chicago ("City") Mayor's Office, pursuant to the Illinois Freedom of Information Act ("FOIA"), 5 ILCS 140/1, et seq. The BGA's complaint in this matter relates to a FOIA request sent to the Mayor's Office dated September 14, 2015 that sought, among other information, email communications from personal, non-City email accounts. In particular, the BGA requested "[t]he complete contents of any email server of any kind that is used by Mayor's Office employees to discuss public business," excluding the City's email server "@cityofchicago.org." The BGA also requested "[a]ll emails of Rahm Emanuel," and two former City employees, "discussing public business that reside on any email accounts other than

'@cityofchicago.org.' This would include, for example, personal Gmail, Yahoo, or other commercially available accounts, as well as emails on any privately maintained email systems." The complaint also relates to BGA's April 29, 2015 request for, among other things, "All emails residing on any non-government email accounts used by the head of your agency or department, directly or indirectly on that person's behalf, that include in whole or in part the transacting or discussing of public business, dated January 1, 2015, to present. Your search should include the inbox, sent, deleted, and any other folders in the email account."

2. Mayor Emanuel must and does maintain personal, non-City email accounts for the purpose of communicating about personal and political matters and other subjects not related to the transaction of City business.

3. The parties disagree about whether emails stored on personal, non-City email accounts related to the transaction of public business are subject to disclosure under FOIA. In the interests of resolving this litigation, however, Mayor Emanuel has decided to provide to the City all emails stored on his non-City email accounts, which consist of one Gmail account and one account at the rahmemail.com domain, that pertain to the transaction of City business. On Mayor Emanuel's instructions, his personal counsel has reviewed and provided to the City, for review and production in response to this and future FOIA requests, all emails stored on Mayor Emanuel's non-City accounts that pertain in whole or in part to the transaction of City business, including, without limitation, all emails that discuss actual or

contemplated City operations, policies, personnel, contracting, or expenditures, whether sent to or from City employees, other government officials, campaign donors, political consultants, or other people. Further explanation of the criteria used to make this determination is provided in Exhibit A to this agreement. Where emails included both City business and other matters, the portions related to City business were provided and the other matters were redacted. The City's lawyers have reviewed those emails, determined which are responsive to the BGA's FOIA request, and will produce the responsive emails to the BGA, after withholding or redacting information that is exempt under Section 7 of FOIA, on December 21, 2016.

4. The Mayor, through his undersigned counsel, represents and warrants that all emails on his non-City accounts related to the transaction of City business, as described above, have been provided to the City. The Mayor further represents and warrants, through his undersigned counsel, that no emails on his non-City accounts have been deleted since the filing of this litigation.

5. The Mayor agrees to preserve all emails sent to or from his non-City accounts that were not provided to the City for a period of at least two years, except to the extent related to purely personal (as opposed to political) matters, which will be preserved for 30 days.

4. The parties acknowledge that this settlement is not an admission of liability or of wrongdoing on the part of the City's future, current, or former officers,

agents, and employees, and shall not serve as evidence of the validity or invalidity of the claims alleged in the BGA's complaint. The parties further acknowledge that this settlement does not constitute a waiver of the BGA's right to challenge the City's decision to withhold information responsive to the BGA's FOIA request as exempt under Section 7 of FOIA, or of the BGA's right to assert that emails stored on the non-City accounts of City officials and employees other than Mayor Emanuel are subject to disclosure under FOIA. Similarly, the parties acknowledge that this settlement does not constitute a waiver of the City's right to deny other FOIA requests that are unduly burdensome as defined by FOIA, or to assert in response to the FOIA request at issue here and other FOIA requests that emails stored on the non-City accounts of City officials and employees other than Mayor Emanuel are not subject to disclosure under FOIA.

6. In consideration of the settlement entered pursuant to this Release and Settlement Agreement, and upon advice of counsel, the BGA agrees to dismiss with prejudice its claims against the Mayor's Office, with the Court to retain jurisdiction to resolve any disputes as to any exemption claims.

7. The parties further agree that, in order to forego further litigation and expense, the City of Chicago shall pay BGA's attorney's fees and costs in the amount of \$96,275.00.

8. The City agrees to make this payment within 60 days of receipt by the Corporation Counsel's Office of a court-entered order dismissing this case

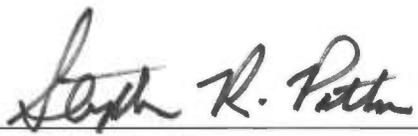
with prejudice, a court-entered stipulation of dismissal, a fully-executed settlement agreement, and any other court-entered order necessary for the disposition of funds, whichever is received last. This sum shall be payable solely by the City of Chicago, and the BGA agrees that it will not seek payment from any source other than the City of Chicago.

9. This Release and Settlement Agreement is entered into in the State of Illinois and shall be construed and interpreted in accordance with its laws. Terms contained herein shall not be construed against a party merely because that party is or was the principal drafter.

10. Both parties agree to cooperate fully and to execute a Stipulation to Dismiss and any and all supplementary documents and to take all additional actions that are consistent with and that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Release and Settlement Agreement.

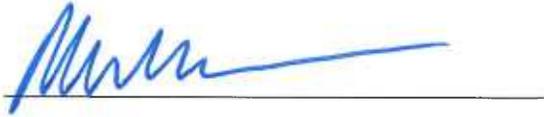
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## EXHIBIT A

By way of illustration, the following are hypothetical examples of types of emails that would and would not be considered to be pertaining to the transaction of City business under the standards articulated in this agreement. These hypothetical examples are areas that were raised by the BGA during the parties' negotiations and are included for clarity; they do not indicate that any such emails in fact exist. While these examples reference political supporters and specific City examples of City business, the same principles were applied to communications with others (e.g., social friends, political colleagues) and related to other matters of City business.

### Hypothetical examples not related to the transaction of City business:

1. Emails solely discussing personal or family matters.
2. Emails solely discussing political strategy, including the political environment in or at other levels or units of government.
3. Emails with a political supporter solely discussing dinner plans.
4. Emails with a political consultant solely about the results of that consultant's polling on issues of City policy.
5. Emails solely about the health of family members.
6. "Thank you" emails to political supporters not mentioning City business.

7. Invitations to non-City public officials to speak at events that were not official City events.

Hypothetical examples that would relate to the transaction of City business:

1. Emails with political supporters about City policies or conduct, for example the release of video of a police-involved shooting.
2. Emails discussing political strategy that discuss City policy or business, for example, private investments in Chicago Park District facilities.
3. Emails discussing dinner plans with a political supporter in which the face of the email indicates there would be a discussion of City business, for example, efforts to locate the Obama Presidential Center in Chicago.
4. Emails discussing actual or potential changes to City policies in light of polling conducted by a political consultant, for example, City investments in neighborhood economic development or youth mentoring to address gun and gang violence.
5. "Thank you" emails to political supporters in which City policies were discussed.
6. Invitations to speak at official City events.