

2022 IL App (4th) 220204

NO. 4-22-0204

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

November 30, 2022
Carla Bender
4th District Appellate
Court, IL

ROGER W. HURLBERT, d/b/a Sage Information Services,)	Appeal from the
Plaintiff-Appellant,)	Circuit Court of
v.)	Jo Daviess County
LAURA EDMONDS, in Her Official Capacity as Chief)	No. 21MR34
County Assessment Officer of Jo Daviess County,)	
Defendant-Appellee.)	Honorable
)	John D. Hay,
)	Judge Presiding.
)	

JUSTICE TURNER delivered the judgment of the court, with opinion. Presiding Justice Knecht and Justice Bridges concurred in the judgment and opinion.

OPINION

¶ 1 In April 2021, plaintiff, Roger W. Hurlbert, doing business as Sage Information Services, filed *pro se* a complaint against defendant, Laura Edmonds, in her official capacity as Chief County Assessment Officer of Jo Daviess County. The complaint sought (1) a finding Edmonds violated the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2020)) when she withheld the requested records; (2) the release of the records requested by plaintiff; and (3) an award of attorney fees, costs, and civil penalties in favor of plaintiff. In July 2021, Jo Daviess County (Defendant County) was substituted as defendant in this case. In August 2021, the parties filed cross-motions for summary judgment. After a December 2021 hearing, the Jo Daviess County circuit court granted summary judgment in favor of Defendant County and against plaintiff.

¶ 2 Plaintiff appeals, asserting the circuit court erred by finding (1) the exemption set forth in section 7(1)(i) of FOIA (5 ILCS 140/7(1)(i) (West 2020)) applied to plaintiff's request and (2) Defendant County had not waived its right to assert an exemption. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In a January 30, 2021, letter, plaintiff requested a copy of the most recent county tax map file maintained in accordance with section 9-35 of the Property Tax Code (35 ILCS 200/9-35 (West 2020)) for all of the parcels in the county in shapefile or similar format, not PDF (portable document format). The request further stated it was only the county tax maps that were being sought and not any overlaying data. Edmonds received the request and forwarded it to Joe Kratcha, the FOIA officer and director of information technology and geographic information services for Defendant County. In reply to plaintiff's request, Kratcha sent plaintiff a letter requesting plaintiff, as president of Sage Information Services, to disclose if the FOIA request was for commercial purposes. Plaintiff replied, "we may be properly classified as a commercial requestor [*sic*]." On March 16, 2021, Kratcha sent plaintiff a letter denying his FOIA request. The letter noted geographic information system (GIS) data was exempt from disclosure under section 7(1)(i) of FOIA (5 ILCS 140/7(1)(i) (West 2020)) and "[s]hapefiles of parcel boundaries are GIS data."

¶ 5 In April 2021, plaintiff filed the FOIA complaint at issue against Edmonds. After Defendant County was substituted as defendant, it filed an answer and affirmative defense. The affirmative defense asserted an exemption to disclosure. It noted plaintiff was a commercial requester and any computer GIS data requested by plaintiff could be reasonably expected to produce private gain to plaintiff or a public loss to Defendant County. It further alleged the following: "Valuable formulae, computer geographic systems, designs, drawings and research data in the possession of defendant, Jo Daviess County, when disclosure could reasonably be expected

to produce private gain or public loss, was properly withheld by defendant, Jo Daviess County, pursuant to § 7(1)(i) of [FOIA].” Plaintiff filed a reply to the affirmative defense, denying the allegations of Defendant County.

¶ 6 In August 2021, plaintiff filed a motion for summary judgment. He first asserted the requested maps were an open and public record under section 2(c) of FOIA (5 ILCS 140/2(c) (West 2020)), and thus it was presumed to be open for plaintiff’s inspection or copying. Plaintiff also argued Defendant County failed to prove by clear and convincing evidence a FOIA exemption applies. He contended a county tax map was not a “computer geographic system” and the exemption set forth in section 7(1)(i) did not apply to his request. As such, plaintiff argued he was entitled to the production of the county tax maps in shapefile format and Defendant County’s failure to produce the county tax maps violated FOIA. Plaintiff attached several documents to his motion, including (1) an April 15, 2005, letter from then Attorney General Lisa Madigan to then House Majority Leader Barbara Flynn Currie and (2) plaintiff’s affidavit listing 21 counties from which he had obtained county tax map files in shapefile format. The April 2005 letter addressed Currie’s question about whether a public body could charge a fee in excess of that authorized by section 6 of FOIA (5 ILCS 140/6 (West 2002)). Attorney General Madigan opined that, while section 7(1)(i) of FOIA allowed a public body to withhold access to records contained in or generated by a GIS in limited circumstances where disclosure would likely result in a private gain or public loss, the public body, if provided access to such information, could not charge a fee for reproducing the information in excess of the fee authorized by section 6.

¶ 7 That same month, Defendant County also filed a motion for summary judgment, contending the documents plaintiff requested were part of a computer geographic system and were exempt under section 7(1)(i). It noted Defendant County had a reasonable expectation of plaintiff

receiving a private gain and the county a public loss because plaintiff was a commercial requester in the business of selling mapping information for a commercial purpose. Defendant County also stated it was relying upon a 2010 opinion of the public access counselor of the Illinois Attorney General's office agreeing with Defendant County's prior refusal to produce the requested information when a similar request was made by a map publisher. Defendant County filed a memorandum of law in support of its motion for summary judgment and attached, *inter alia*, affidavits by Edmonds and Kratcha, the June 14, 2010, letter from the Attorney General's public access counselor, and legislative history. Attached to Kratcha's affidavit was a copy of the Defendant County's licensing agreement for GIS data, which included a provision the data could not be sold. The requested information addressed in the 2010 opinion by the public access counselor was the following: (1) parcel polygons with attributed owner information, including the property index number, owner's name, address, and acreage; (2) section polygons with attributes; (3) incorporated city and village polygons and attributes; (4) road centerlines with attributes; (5) town and range polygons with attributes; (6) subdivision polygons with attributes; (7) hydroline and polygon features with attributes; (8) railroad lines with attributes; and (9) parks and recreation polygons with attributes. The parties then filed responsive briefs to the cross-motions for summary judgment.

¶ 8 On December 30, 2021, the circuit court held a hearing on the cross-motions for summary judgment. The court had the parties make arguments, and then it asked questions of the parties. After hearing the parties' final arguments, the court took the matter under advisement. On February 28, 2022, the court entered his written order, finding (1) the requested county tax maps stored in a shapefile format were exempt under section 7(1)(i) of FOIA and (2) Defendant County's previous voluntary disclosure of the requested records did not result in waiver of its right

to invoke the exemption set forth in section 7(1)(i). The court granted summary judgment in favor of Defendant County and against plaintiff.

¶ 9 On March 15, 2022, plaintiff filed a timely notice of appeal in sufficient compliance with Illinois Supreme Court Rule 303 (eff. July 1, 2017). Thus, this court has jurisdiction of plaintiff’s appeal under Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 10 II. ANALYSIS

¶ 11 In this case, the parties filed cross-motions for summary judgment (735 ILCS 5/2-1005 (West 2020)), and the circuit court entered judgment in favor of Defendant County. “The filing of cross-motions for summary judgment constitutes an implicit agreement between the parties that there are no genuine issues of material fact and only a question of law is presented to the court.” *West Bend Mutual Insurance Co. v. Krishna Schaumburg Tan, Inc.*, 2021 IL 125978, ¶ 30, 183 N.E.3d 47. When the circuit court has granted summary judgment to a party, we review the judgment *de novo*. *West Bend Mutual Insurance Co.*, 2021 IL 125978, ¶ 30. Moreover, whether an exemption applies under FOIA can be a question of statutory construction, which we review *de novo*. *Garlick v. Naperville Township*, 2017 IL App (2d) 170025, ¶ 44, 84 N.E.3d 607.

¶ 12 A. Section 7(1)(i) Exemption

¶ 13 Plaintiff first contends the circuit court erred by finding Defendant County showed by clear and convincing evidence section 7(1)(i) applied to his request for disclosure of the county tax maps in shapefile format.

¶ 14 1. *Statutory Construction of Computer Geographic Systems*

¶ 15 With FOIA, the legislature established a public policy for 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.” 5 ILCS 140/1 (West 2020); see also *Bowie v.*

Evanston Community Consolidated School District No. 65, 128 Ill. 2d 373, 378, 538 N.E.2d 557, 559 (1989) (noting the statute’s purpose is “to open governmental records to the light of public scrutiny”). Courts liberally construe FOIA “to achieve the goal of ‘provid[ing] the public with easy access to government information.’ ” *Garlick*, 2017 IL App (2d) 170025, ¶ 55 (quoting *Southern Illinoisan v. Illinois Department of Public Health*, 218 Ill. 2d 390, 416, 844 N.E.2d 1, 15 (2006)).

FOIA also provides:

“Restraints on access to information, to the extent permitted by this Act, 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 any or all of the people.” 5 ILCS 140/1 (West 2020).

As such, courts are to construe narrowly FOIA’s exemptions. *Garlick*, 2017 IL App (2d) 170025, ¶ 55.

¶ 16 In this case, Defendant County relied upon the exemption contained in section 7(1)(i) of FOIA (5 ILCS 140/7(1)(i) (West 2020)) and asserted the requested shapefiles fell under the “computer geographic systems” language of the exemption. Plaintiff contends that exemption is inapplicable because it just applies to systems and not the data or files generated or stored within those systems. Whether “computer geographic systems” includes GIS data such as shapefiles presents a matter of first impression in Illinois.

¶ 17 The primary objective of statutory interpretation is to ascertain and give effect to the legislature’s intent. *People v. Leib*, 2022 IL 126645, ¶ 28. Our “inquiry begins with examining the plain and ordinary meaning of the statutory language, which is the surest and most reliable indicator of legislative intent.” *Leib*, 2022 IL 126645, ¶ 28. This court construes the statute as a

whole and affords the statutory language its plain and ordinary meaning. *Leib*, 2022 IL 126645, ¶ 28. Moreover, the rules of statutory construction require “a statute to be applied in a way that no word, clause or sentence is rendered superfluous or meaningless.” *Kozak v. Retirement Board of the Firemen’s Annuity & Benefit Fund of Chicago*, 95 Ill. 2d 211, 216, 447 N.E.2d 394, 397 (1983). “Where that language is clear and unambiguous, we must apply the statute without further aids of statutory construction.” *Leib*, 2022 IL 126645, ¶ 28. Accordingly, we begin our analysis with the language of section 7(1)(i) of FOIA, which states the following:

“Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for ‘computer geographic systems’ provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.” 5 ILCS 140/7(1)(i) (West 2020).

¶ 18 We begin by examining the plain language of “computer geographic systems.” Merriam-Webster’s Online Dictionary defines a “computer” as “a programmable usually electronic device that can store, retrieve, and process data.” Merriam-Webster Online Dictionary, <https://merriam-webster.com/dictionary/computer> (last visited Nov. 18, 2022) [<https://perma.cc/5ML5-D3LN>]. “[G]eographic” is defined as “of or relating to geography.” Merriam-Webster Online Dictionary, <https://merriam-webster.com/dictionary/geographic> (last visited Nov. 18, 2022) [<https://perma.cc/R5KM-HJL5>]. A definition for “system” is “a group of devices or artificial objects or an organization forming a network especially for distributing something or serving a

common purpose.” Merriam-Webster Online Dictionary, <https://merriam-webster.com/dictionary/system> (last visited Nov. 18, 2022) [<https://perma.cc/5WNQ-2VFA>]. Thus, the plain language of “computer geographic systems” does not clearly suggest the data contained within such a system would fall under the exemption. Moreover, as plaintiff notes, the legislature referred to “research data” but did not mention data with “computer geographic systems.” However, as Defendant County points out, the provision goes on to say the computer geographic systems exemption does not extend to news media requests “when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.” 5 ILCS 140/7(1)(i) (West 2020). If the term “computer geographic systems” did not include the data or information stored in the system, then the aforementioned provision would be rendered superfluous because the media would not request the system’s hardware or software to provide information for the general public. To render the news media provision superfluous is inconsistent with the rules of statutory construction. Since the statute’s plain language is unambiguous, we do not address the provision’s legislative history or the California case, *Sierra Club v. Superior Court*, 302 P.3d 1026 (Cal. 2013), cited by plaintiff.

¶ 19 Accordingly, we find a reading of the plain language of the entire statute provides the term “computer geographic systems” includes data stored in such a system.

¶ 20 *2. Nature of Plaintiff’s Request*

¶ 21 Plaintiff’s FOIA request at issue in this appeal was as follows:

“We would greatly appreciate a copy of the most recent county tax map file which is maintained in accordance with Sec. 9-35 of the Property Tax Code [(35 ILCS 200/9-35 (West 2020)] for all of the parcels in the county. Shapefile or similar (not PDF) format is requested, either on CD or other electronic media, or by email.

A sample printout from your mapping file is attached.”

Later, in the request, plaintiff acknowledged the county tax map file may be part of a comprehensive mapping system with overlays adding additional information. Plaintiff emphasized he only wanted the county tax maps. As such, plaintiff requested a shapefile format file of the same geographic information (parcel boundaries and identification traits) contained in the PDF form of the county tax map. It did not request any other layers of information, such as zoning, wells, septic tanks, public safety information, and orthophotography. It is undisputed the PDF form of the county tax maps are public documents subject to disclosure under FOIA.

¶ 22 In the denial letter for the aforementioned request, Kratcha stated, “[s]hapefiles of parcel boundaries are GIS data,” and GIS data is exempt under section 7(1)(i). When a public body asserts a record is exempt from disclosure, the public body bears the burden of proving by clear and convincing evidence the exemption applies. 5 ILCS 140/1.2 (West 2020). “ ‘To meet this burden and to assist the court in making its determination, the agency must provide a *detailed* justification for its claim of exemption, addressing the requested documents specifically and in a manner allowing for adequate adversary testing.’ ” (Emphasis in original.) *Illinois Education Ass’n v. Illinois State Board of Education*, 204 Ill. 2d 456, 464, 791 N.E.2d 522, 527 (2003) (quoting *Baudin v. City of Crystal Lake*, 192 Ill. App. 3d 530, 537, 548 N.E.2d 1110, 1114 (1989)). Additionally, we note section 6 of FOIA (5 ILCS 140/6 (West 2020)) states, “[w]hen a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible.” As noted, Defendant County did not raise any feasibility issues or assert it did not maintain the county tax map without overlaying data.

¶ 23 Plaintiff first asserts the location of the county tax map in shapefile format in the GIS system is not determinative. In support of that argument, he cites *Stern v. Wheaton-*

Warrenville Community Unit School District 200, 233 Ill. 2d 396, 404, 910 N.E.2d 85, 91 (2009), where the supreme court addressed whether a school superintendent's employment contract contained in his personnel file was exempt from disclosure under section 7(1)(b)(ii) of FOIA (5 ILCS 140/7(1)(b)(ii) (West 2006)). That section provided an exemption from disclosure for “ ‘personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions[.]’ ” *Stern*, 233 Ill. 2d at 406 (quoting 5 ILCS 140/7(1)(b) (West 2006)). Our supreme court held the fact the superintendent's employment contract was physically maintained within a public employee's personnel file was insufficient to insulate it from disclosure. *Stern*, 233 Ill. 2d at 412. The court explained that, if the exemption's purpose was to prevent FOIA from being used to violate personal privacy, and FOIA expressly provided “ ‘[t]he disclosure of information that bears on the public duties of public employees,’ such as employment contracts, ‘shall not be considered an invasion of personal privacy,’ then a contract's physical location within an otherwise exempt record is irrelevant.” *Stern*, 233 Ill. 2d at 412. That conclusion was supported by section 8 of FOIA, which provided, “ ‘If any public record that is exempt from disclosure under Section 7 of this Act contains any material which is not exempt, the public body shall delete the information which is exempt and make the remaining information available for inspection and copying.’ ” *Stern*, 233 Ill. 2d at 412 (quoting 5 ILCS 140/8 (West 2006)). The supreme court also noted it had observed “the mere ‘commingling’ of exempt and nonexempt material [did] not prevent a public body from disclosing the nonexempt portion of the record.” *Stern*, 233 Ill. 2d at 412. While this case addresses a different exemption from disclosure and different types of electronic formats, the *Stern* decision indicates courts cannot just look at the location of the requested material but must also look at the material itself and the purpose behind the exemption when analyzing the exemption's applicability.

¶ 24 Plaintiff also contends the format is not determinative. That argument is not as simple as plaintiff suggests. One aspect of format addressed at oral arguments was the fact the shapefile format was more sophisticated than the PDF format, since the shapefile format allows for manipulation of the data it contains. Different electronic formats and the manipulation of public information was addressed in *Fagel v. Department of Transportation*, 2013 IL App (1st) 121841, 991 N.E.2d 365. There, the reviewing court considered whether the locked version of an electronic Excel spreadsheet provided by the public body—which restricted the requester’s ability to sort, search, filter, or utilize the data in a manner ordinarily allowed by the Excel program—complied with the statutory language of FOIA. *Fagel*, 2013 IL App (1st) 121841, ¶ 30. The *Fagel* court found the public body had to comply with FOIA by furnishing an electronic copy of the unlocked version of the Excel spreadsheet to the requestor. *Fagel*, 2013 IL App (1st) 121841, ¶ 31. In reaching that conclusion, the *Fagel* court noted the request had been for the information “in ‘Excel format,’ ” which the reviewing court found “necessarily encompassed the production of the information in a manner that would allow [the requester] to fully exercise the functions of the Excel program with regard to the document.” *Fagel*, 2013 IL App (1st) 121841, ¶ 31. It agreed with the circuit court the “locked version of the Excel spreadsheet that [the public body] furnished to [the requester] resembled a ‘picture’ of an Excel spreadsheet, akin to a portable document format (PDF), rather than an actual Excel spreadsheet.” *Fagel*, 2013 IL App (1st) 121841, ¶ 31. Moreover, it was agreed the public body regularly maintained an unlocked version of the Excel spreadsheet in its ordinary course of business and had previously provided it during an inquiry process on the matter. *Fagel*, 2013 IL App (1st) 121841, ¶ 31. Thus, the public body had the ability to provide the unlocked Excel spreadsheet, as requested. *Fagel*, 2013 IL App (1st) 121841, ¶ 31. In *Fagel*, 2013 IL App (1st) 121841, ¶ 31, the public body had not pled any exemptions under section 7 of

FOIA applied to excuse it from providing the requested information in the unlocked format that is normally maintained by it.

¶ 25 Additionally, the *Fagel* court shared the concerns of the circuit court and the public body about providing the public with access to unlocked electronic copies of public records had potential risks of manipulation or misuse of that information. *Fagel*, 2013 IL App (1st) 121841, ¶ 35. It noted the legislature could address the concern if desired. *Fagel*, 2013 IL App (1st) 121841, ¶ 35. The *Fagel* court also noted “[a] fear of manipulation or misuse of the information is not an exemption under section 7 of FOIA upon which [the public body] could justify withholding the unlocked version of the Excel spreadsheet.” *Fagel*, 2013 IL App (1st) 121841, ¶ 35. Since the *Fagel* decision, the legislature has not added an exemption for public records held in a format that allows for the manipulation of public information. Thus, the shapefile’s functionality that allows for manipulation of public information alone does not make the shapefile exempt from disclosure.

¶ 26 However, unlike *Fagel*, Defendant County did raise a section 7 exemption. Moreover, *Stern* directs us to look at the purpose behind the exemption in considering if a specific document is exempt. While we are unaware of any case law setting forth the purpose for the exemption contained in section 7(1)(i), a reading of the provision indicates its purpose is to prohibit private gain or public loss caused by the disclosure of certain *valuable* materials. Thus, we now examine the files specifically requested by plaintiff.

¶ 27 In his affidavit, Kratcha explained a shapefile was a digital geospatial vector data that stored geometric location and attribute information of geographic features. According to Kratcha, maps in shapefile format can be constructed from various types of geographic information in a collection of layers and other elements. Shapefiles are stored in a GIS system. Defendant County budgets around \$200,000 per year to maintain its GIS system. It also has a cost recovery

system, under which requestors pay a fee to support the Defendant County's GIS program and are required to sign a licensing agreement. While Defendant County could have provided a clearer explanation, we find Defendant County's information did show the county tax maps in shapefile format were more valuable and had more functionality than those in PDF format. Since the exemption seeks to prohibit private gain or public loss from the disclosure of certain valuable materials, we find the exemption does apply to county tax maps stored in shapefile format in a geographic information system.

¶ 28 *3. Private Gain*

¶ 29 Plaintiff does not challenge the circuit court's conclusion a reasonable expectation of private gain existed with the disclosure of the county tax maps in shapefile format.

¶ 30 *4. Conclusion*

¶ 31 Since the county tax maps in shapefile format were part of a computerized geographic system and the disclosure of such was reasonably expected to produce a private gain, we find the circuit court did not err by finding the section 7(1)(i) exemption applied.

¶ 32 *B. Waiver of Exemption*

¶ 33 Plaintiff also contends the circuit court erred by finding Defendant County had not waived its right to assert the section 7(1)(i) exemption. Defendant County contends its disclosure of GIS data under licensing agreements do not result in waiver of a section 7(1)(i) exemption.

¶ 34 In *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 412-13, 680 N.E.2d 374, 379 (1997), our supreme court found a university's prior disclosure of information waived the university's right to refuse disclosure of the information to the plaintiff under an exemption provided by FOIA. In reaching that conclusion, our supreme court recognized that, in addressing similar situations under the federal FOIA, the federal courts have held the

voluntary disclosure of records in one situation can preclude later claims the same records are exempt from release to someone else. *Lieber*, 176 Ill. 2d at 413. It agreed with the Eighth Circuit Court of Appeals that “selective disclosure by the government ‘is offensive to the purposes underlying the FOIA and intolerable as a matter of policy. Preferential treatment of persons or interest groups fosters precisely the distrust of government the FOIA was intended to obviate.’ ” *Lieber*, 176 Ill. 2d at 413 (quoting *State of North Dakota ex rel. Olson v. Andrus*, 581 F.2d 177, 182 (8th Cir. 1978)).

¶ 35 However, the appellate court later recognized courts should not mechanically apply the aforementioned waiver rule whenever a prior disclosure of information has occurred but, rather, should consider “the circumstances related to the disclosure, including the purpose and extent of the disclosure as well as the confidentiality surrounding the disclosure.” *Chicago Alliance for Neighborhood Safety v. City of Chicago*, 348 Ill. App. 3d 188, 202, 808 N.E.2d 56, 67 (2004). In support of that finding, the court cited *Mobil Oil Corp. v. United States Environmental Protection Agency*, 879 F.2d 698, 700 (9th Cir. 1989), which noted “[t]he inquiry into whether a specific disclosure constitutes waiver is fact specific.”

¶ 36 Plaintiff contends the facts of this case are nearly identical to the facts in *Lieber* and the waiver rule should apply. He notes Defendant County has produced the data to him in a hardcopy format, to others in the shapefile format upon signing a licensing agreement, and to others in a digital format via a computer at Defendant County’s assessment office. The printout provided to plaintiff and the digital format in the assessment office are in PDF format and not shapefile format. With the licensing agreement, the requester pays a fee for the GIS data and signs an agreement, which prohibits the reproduction and redistribution of the GIS data. Defendant County admitted to releasing GIS data, including parcel data, through a cost recovery program

with a licensing agreement. The agreement prohibits the reproduction and redistribution of the GIS data, which would prevent the requestor from realizing private gain from receiving the information. Moreover, with the user fee, no public loss would occur from the disclosure under the licensing agreement. With no private gain or public loss from the disclosure of the GIS data, neither the exemption set forth in section 7(1)(i) nor its purpose are invoked by the disclosure. Thus, we agree with the circuit court Defendant County did not waive that exemption in disclosing the information.

¶ 37 Additionally, plaintiff asserts the user fee associated with Defendant County's licensing agreement violates section 6 of FOIA (5 ILCS 140/6 (West 2020)). Defendant County asserts plaintiff has forfeited this issue. We agree. The lack of development of an issue results in its forfeiture. *Sobczak v. General Motors Corp.*, 373 Ill. App. 3d 910, 924, 871 N.E.2d 82, 95 (2007). The argument was not really developed at the circuit court level. We have no information on the actual amount of the user fee for obtaining the county tax maps in shapefile formatted under the licensing agreement. Even if we did know an amount, we fail to see how a user fee that violates section 6 waives Defendant County's section 7(1)(i) exemption as to plaintiff's current request. Any user fee would not be inconsistent with the language in *Lieber*, 176 Ill. 2d at 413, regarding the impropriety of preferential treatment of persons or interest groups because the disclosure in this case is consistent with the purpose of the applicable FOIA exemption. The persons receiving the document have essentially agreed to not use the valuable GIS data for personal gain.

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we affirm the Jo Daviess County circuit court's judgment.

¶ 40 Affirmed.

Hurlbert v. Edmonds, 2022 IL App (4th) 220204

Decision Under Review: Appeal from the Circuit Court of Jo Daviess County, No. 21-MR-34; the Hon. John D. Hay, Judge, presiding.

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