

ZONING BOARD OF APPEALS

Rules of Procedure



**CITY OF CHICAGO
LORI LIGHTFOOT, MAYOR**

**Zoning Board of Appeals
Farzin Parang, Chairman**

Zoning Board of Appeals
City of Chicago
City Hall
121 N. LaSalle, Room 905-A
Chicago, Illinois 60602
(312) 744-3888
www.chicago.gov/zba
zba@cityofchicago.org

BY AUTHORITY VESTED IN THE ZONING BOARD OF APPEALS OF THE CITY OF CHICAGO PURSUANT TO SECTION 17-14-0303-E OF THE MUNICIPAL CODE OF CHICAGO (CH. 17 OF SUCH MUNICIPAL CODE BEING THE CHICAGO ZONING ORDINANCE (“ZONING ORDINANCE”)), THE FOLLOWING RULES OF PROCEDURE ARE HEREBY ADOPTED.

Signed: 
Farzin Parang, Chairman

Dated: 6/26/20

Signed: _____
Sam Toia, Vice Chairman

Dated: _____

Signed: _____
Jolene Saul, Commissioner

Dated: _____

Signed: _____
Timothy Knudsen, Alternate Commissioner

Dated: _____

Published: June 26, 2020

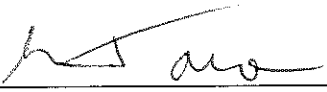
Effective: June 26, 2020

Zoning Board of Appeals
City of Chicago
City Hall
121 N. LaSalle, Room 905-A
Chicago, Illinois 60602
(312) 744-3888
www.chicago.gov/zba
zba@cityofchicago.org

BY AUTHORITY VESTED IN THE ZONING BOARD OF APPEALS OF THE CITY OF CHICAGO PURSUANT TO SECTION 17-14-0303-E OF THE MUNICIPAL CODE OF CHICAGO (CH. 17 OF SUCH MUNICIPAL CODE BEING THE CHICAGO ZONING ORDINANCE ("ZONING ORDINANCE")), THE FOLLOWING RULES OF PROCEDURE ARE HEREBY ADOPTED.

Signed: _____
Farzin Parang, Chairman

Dated: _____

Signed:  _____
Sam Toia, Vice Chairman

Dated: 6-26-20

Signed: _____
Jolene Saul, Commissioner

Dated: _____

Signed: _____
Timothy Knudsen, Alternate Commissioner

Dated: _____

Published: June 26, 2020

Effective: June 26, 2020

Zoning Board of Appeals
City of Chicago
City Hall
121 N. LaSalle, Room 905-A
Chicago, Illinois 60602
(312) 744-3888
www.chicago.gov/zba
zba@cityofchicago.org

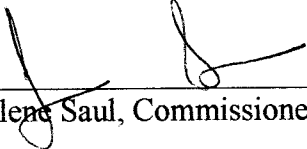
BY AUTHORITY VESTED IN THE ZONING BOARD OF APPEALS OF THE CITY OF CHICAGO PURSUANT TO SECTION 17-14-0303-E OF THE MUNICIPAL CODE OF CHICAGO (CH. 17 OF SUCH MUNICIPAL CODE BEING THE CHICAGO ZONING ORDINANCE ("ZONING ORDINANCE")), THE FOLLOWING RULES OF PROCEDURE ARE HEREBY ADOPTED.

Signed: _____
Farzin Parang, Chairman

Dated: _____

Signed: _____
Sam Toia, Vice Chairman

Dated: _____

Signed:  _____
Jolene Saul, Commissioner

Dated: 6/26/2020

Signed: _____
Timothy Knudsen, Alternate Commissioner

Dated: _____

Published: June 26, 2020

Effective: June 26, 2020

Zoning Board of Appeals
City of Chicago
City Hall
121 N. LaSalle, Room 905-A
Chicago, Illinois 60602
(312) 744-3888
www.chicago.gov/zba
zba@cityofchicago.org

BY AUTHORITY VESTED IN THE ZONING BOARD OF APPEALS OF THE CITY OF CHICAGO PURSUANT TO SECTION 17-14-0303-E OF THE MUNICIPAL CODE OF CHICAGO (CH. 17 OF SUCH MUNICIPAL CODE BEING THE CHICAGO ZONING ORDINANCE ("ZONING ORDINANCE")), THE FOLLOWING RULES OF PROCEDURE ARE HEREBY ADOPTED.

Signed: _____
Farzin Parang, Chairman


Dated: _____

Signed: _____
Sam Toia, Vice Chairman

Dated: _____

Signed: _____
Jolene Saul, Commissioner

Dated: _____

Signed: 
Timothy Knudsen, Alternate Commissioner

Dated: 6-26-20

Published: June 26, 2020

Effective: June 26, 2020

Zoning Board of Appeals
City of Chicago
City Hall
121 N. LaSalle, Room 905-A
Chicago, Illinois 60602
(312) 744-3888
www.chicago.gov/zba
zba@cityofchicago.org

CONTENTS

ORGANIZATION	2
JURISDICTION AND AUTHORITY	4
APPLICATIONS FOR APPEALS	5
APPLICATIONS FOR SPECIAL USES AND VARIATIONS	6
PUBLIC HEARINGS	8
FINAL DISPOSITION	11
SUPPLEMENTAL RULE-MAKING AUTHORITY	12
EMERGENCY RULE-MAKING AUTHORITY	13

ORGANIZATION

The Zoning Board of Appeals (“Board”) shall consist of five members and up to two alternate members whose duties are set forth in the Zoning Ordinance and in these Rules of Procedure. The Board shall be appointed as provided in Section 17-14-301-A of the Zoning Ordinance. A quorum shall consist of three (3) members. All Board meetings shall be open to the public and shall be governed by the Illinois Open Meetings Act, 5 ILCS 120/1 *et seq.* (the “Open Meetings Act”).

Officers: The officers of the Board shall consist of a chairman (“Chairman”) and a vice chairman (“Vice Chairman”). The Chairman shall be designated by the mayor at the time of his or her appointment to the Board. All meetings shall be held at the call of the Chairman. The Chairman shall be the chief official of the Board, administering oaths, compelling the attendance of witnesses, presiding at Board hearings and meetings and deciding upon all points of order and procedure. The Board shall elect from its members a Vice Chairman who shall serve as acting chairman at Board meetings when the Chairman is absent or unable to conduct Board hearings and meetings. Where appropriate, all references to the Chairman in these Rules of Procedure shall include the Vice Chairman.

Office: The office of the Board shall be in Room 905 of City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602 and shall be open for the transaction of business from 8:30 AM to 4:30 PM, Monday through Friday (excluding City holidays).

Staff: Staff services for the Board are provided by the Ordinance Administration Division of the Department of Planning and Development. Please note that Board staff cannot provide legal advice.

Communications: Unless otherwise directed by Board staff, all communications to the Board shall be by letter. Such letter shall be addressed to the Chairman and: (1) delivered to the Board’s office; or (2) sent to the Board’s email at zba@cityofchicago.org.

Records: Pursuant to Section 17-14-0301-F of the Zoning Ordinance, the Board selects from its staff one staff member to serve as the Board’s secretary (the “Secretary”). The Secretary ensures the Board follows all notice requirements required by the Zoning Ordinance. The Secretary manages all correspondence to the Board, keeps all Board meeting minutes, and keeps all written decisions made by the Board, all of which shall be made available for public review pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* (the “Freedom of Information Act”).

Meetings: All meetings of the Board shall be scheduled by the Chairman and notices of such meetings sent to the Board members. Generally, the Board’s regular meetings are held on the third (3rd) Friday of every month in the City Council Chamber on the Second Floor of City Hall at 121 North LaSalle Street (unless otherwise specified). All special meetings by the Board shall be scheduled by the Chairman in accordance with the provisions of the Open Meetings Act.

Voting: All matters of business requiring the concurrence of Board members shall be determined by a simple majority unless otherwise specified by the Zoning Ordinance.

Alternates: Alternate Board members shall be known as “Alternate A” and “Alternate B.” Alternate A shall be the alternate member whose surname occurs alphabetically before the surname of Alternate B.

Alternate Designation: Regular Board members shall notify the Chairman and the Secretary of their inability to attend a regular or special meeting of the Board as soon as possible. After such notification, the Chairman may designate an alternate to fill the position of the regular member for said meeting. Such designation shall occur on a rotating basis, as the alternates are available. For instance, if the Chairman has last designated Alternate A to fill the position of a regular member, then the Chairman shall next designate Alternate B to fill the position of a regular member. However, if Alternate B is unavailable to fill the position then the Chairman shall have the ability to designate Alternate A to fill the position.

JURISDICTION AND AUTHORITY

The Board is vested with the following jurisdiction and authority under Section 17-14-0302 of the Zoning Ordinance:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the Office of the Zoning Administrator under the Zoning Ordinance;
- (2) To hear and decide applications for special uses and variations to the applicable provisions of the Zoning Ordinance;
- (3) To hear, receive and decide all other matters referred to it, or required of it, by the Zoning Ordinance.

The Board shall not hear or decide any matter where a decision has been rendered therein by the Board within the preceding year (365 days) unless upon remand by a court or upon good cause shown.

APPLICATIONS FOR APPEALS

Form and Content: The application for an appeal shall be filed with the Board within forty-five (45) days after the entry of the final decision by the Office of the Zoning Administrator. The application shall be on a Board supplied form and shall include all materials required by the Board. An application shall not be considered complete – and a public hearing will not be scheduled – until all required materials are completed and submitted. The application for an appeal shall include proposed Findings of Fact. The proposed Findings of Fact shall be in the form supplied by the Board and shall contain all materials previously submitted to the Office of the Zoning Administrator. The proposed Findings of Fact shall be fact-based, detailed, non-conclusory and not tautological. Failure to submit proposed Findings of Fact that are – in the sole judgment of the Board – sufficiently useful to the Board for reviewing the application may result in the application not being heard on its scheduled hearing date and may, in the Board’s discretion, result in the dismissal of the application.

Who May File: An appeal from any order, requirement, decision or determination of the Office of the Zoning Administrator may be taken to the Board by any person, firm or corporation, or by any officer, department, board or bureau aggrieved by a decision of the Office of the Zoning Administrator, except those decisions excluded under the Zoning Ordinance. In accordance with Chapter 2-154 of the Municipal Code of the City of Chicago, disclosures of ownership interests shall be filed with every application.

Notice of Appeal: A notice of appeal shall also be filed with the Office of the Zoning Administrator. Such notice shall specify the grounds of the appeal.

Force and Effect: As an appeal generally stays all furtherance of the action appealed, no appeal shall be in force or in effect until the application is submitted in the form required and notice is filed with the Office of the Zoning Administrator.

Notice of Hearing: Within seven (7) days of the filing of the completed application, the Office of the Zoning Administrator shall provide the Board with all relevant materials from which the decision was made. The Board shall give due notice to the applicant of the date, time and place of the public hearing at which the appeal will be heard.

Evidence: An applicant shall not present new evidence at the public hearing. The Board will review only the evidence previously presented to the Office of the Zoning Administrator.

APPLICATIONS FOR VARIATIONS AND SPECIAL USES

Applications Not Allowed: No application for a variation or special use shall be filed in a specific case where a building permit, certificate of occupancy, or zoning certificate has been denied by the Office of the Zoning Administrator on the grounds that the proposed plan or use is not an allowed use of the property under the provisions of the Zoning Ordinance.

Official Denial: At the time of filing said application, the applicant shall submit the official written denial issued by the Office of the Zoning Administrator. However, in the case of a special use application for an adult use (as defined by 17-17-0104-A of the Zoning Ordinance), such application may be filed whether or not the Office of the Zoning Administrator has issued an official denial of zoning certification or has taken any other action in connection with the application.

Form and Content: Applications for a special use or variation shall be on forms supplied by the Board and shall include all materials required by the Board. An application shall not be considered complete – and a public hearing will not be scheduled – until all required materials are completed and submitted. The application for special uses and variations shall include proposed Findings of Fact. The proposed Findings of Fact shall be in the form supplied by the Board and shall contain all materials an applicant intends the Board to consider (e.g., affidavits, plans, reports, zoning denials, parking determinations, letters, etc.). The proposed Findings of Fact shall be fact-based, detailed, non-conclusory and not tautological. Failure to submit proposed Findings of Fact that are – in the sole judgment of the Board – sufficiently useful to the Board for reviewing the application may result in the application not being heard on its scheduled hearing date and may, in the Board’s discretion, result in the dismissal of the application.

Who May File: Applications for a variation or special use shall be filed by the owner of record or on the owner of record’s behalf by a party having a legal interest in the property and shall be filed within forty-five (45) days of the official denial of zoning certification. If the applicant is not the owner of record, the applicant shall submit written and signed authorization from the owner of record to file said application. In accordance with Chapter 2-154 of the Municipal Code of the City of Chicago, disclosures of ownership interests shall be filed with every application. With respect to special use applications for cannabis business establishments, any additional disclosures of ownership interests shall be filed in accordance with any rule promulgated by the Chairman pursuant to his authority under Section 17-14-0303-G of the Zoning Ordinance.

Written Notice for a Variation: An applicant for a variation shall, not more than thirty (30) days before filing said application with the Board, serve written notice by first class mail on the owners of record of the property for which the variation is requested as well as the owners of record of all property within 100 feet of the property lines of the property for which the variation is requested. Land occupied by public roads, streets, alleys, and other public ways shall be excluded in computing the required number of feet.

Written Notice for a Special Use: An applicant for a special use shall, not more than thirty (30) days before filing said application with the Board, serve written notice by first class mail on the owners of record of the property for which the special use is requested as well as the owners of record of all property within 250 feet of the property lines of the property for which the special use is requested. The number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the required number of feet.

In the case of special use applications for sanitary landfills, hazardous waste treatment or storage facilities, liquid handling facilities, resource recovery facilities, reprocessible construction/demolition material facilities, incinerators or transfer stations, the applicant shall provide written notice by first class mail to the owners of record of the property for which the special use is requested as well as all owners of record of all property within 500 feet of the property lines of the property for which the special use is requested. Again, land occupied by public roads, streets, alleys and other public ways shall be excluded when computing the required number of feet. In addition, written notice shall also be served to the alderman of the ward in which the incinerator, hazardous waste treatment or storage facility, resource recovery facility, reprocessible construction/demolition material facility, transfer station, liquid waste handling facility or sanitary landfill is to be located, as well as to the Solid Waste Advisory Commission.

Proof of Written Notice: The applicant shall furnish to the Secretary a complete list containing the names and the last known addresses of the owners of record of all property required to be served for the application as well as the method of service used. The applicant shall also furnish to the Secretary a sworn affidavit certifying compliance with all applicable written notice requirements.

Posted Notice: The applicant shall post a notice sign on the property in accordance with Section 17-13-107-C of the Zoning Ordinance.

Notice of Hearing: The Board shall give due notice to the applicant of the date, time and place of the public hearing at which time the application for the variation or special use shall be heard. Not more than thirty (30) days nor less than fifteen (15) days before the hearing, the Secretary shall cause to be published a notice of public hearing in a newspaper of general circulation. Not more than thirty (30) days nor less than fifteen (15) days before the hearing, the Secretary shall also send written notice to those persons and entities required to be notified under the Zoning Ordinance.

New Notice Required When: If final action on an application under consideration by the Board is postponed, deferred or otherwise continued for more than twelve (12) months from the date of the originally scheduled public hearing on the application, new notice of the hearing on the application shall be given as required under Sections 17-13-107-A, B, and C of the Zoning Ordinance.

PUBLIC HEARINGS ON APPLICATIONS

Public hearings on applications are held at the Board's regular meetings and may be held at the Board's special meetings. Each meeting at which applications are heard may be divided into a morning and an afternoon session.

Representation of Applicant: The applicant shall be present at the hearing and may be represented by an attorney. Appearance of an applicant via power of attorney shall not be permitted. When the applicant is a land trust, a beneficiary of the trust shall be present. When the applicant is a legal entity other than a land trust, a representative¹ of the applicant shall be present at the hearing. The Board may postpone any hearing if the applicant's representative does not have sufficient knowledge or authority with respect to the application. The Board will resume the hearing when the applicant provides a representative with such sufficient knowledge or authority. In the event that the applicant does not appear, the matter may be dismissed for want of prosecution.

Note: In addition to all the requirements above, all persons that submit an affidavit or report as part of an applicant's proposed Findings of Fact shall also be present at the hearing.

Additional Requirements for Special Uses: All applicants shall provide an expert witness (such as a certified appraiser or land planner) to testify to the standards of Section 17-13-0905 of the Zoning Ordinance. The Board will require a copy of the proposed expert witness' curriculum vitae. If the applicant will not be the operator of the special use, the operator as well as the applicant shall be present at the hearing. Appearance of an operator via power of attorney shall not be permitted. When the operator is a legal entity, a representative² of the operator shall be present at the hearing. The Board may postpone any hearing if the operator's representative does not have sufficient knowledge or authority with respect to the application. The Board will resume the hearing when the operator provides a representative with such sufficient knowledge or authority. In the event that the operator does not appear, the matter may be dismissed for want of prosecution.

Additional Requirements for Special Uses for Cannabis Business Establishments: All applicants shall provide the Board with proof that the community meeting requirements (including, but not limited to, all notice requirements for such community meeting) of Section 17-13-0905-G of the Zoning Ordinance have been met.

Additional Requirements for Variations: All applicants shall provide photographs of the block.

Public Testimony: Any person or entity may appear and testify at the hearing on any application. All persons and entities wishing to testify on an application shall register their

¹ With respect to applicants, "representative" means either: (1) a person listed on Section II.B of the applicant's economic disclosure statement; or (2) an employee of the applicant.

² With respect to operators, "representative" means either: (1) a person listed on Section II.B of the operator's economic disclosure statement (or in the event an economic disclosure statement is not required, a person that would be listed); or (2) an employee of the operator.

names and addresses on the appearance sheet provided by the Board prior to the application being called for hearing. Those persons and entities that have not registered their names and addresses on the appearance sheet prior to the application being called for hearing shall not be allowed to testify on the application. Any person or entity may be represented by an attorney but shall, like the applicant, be present at the hearing. Appearance via power of attorney shall not be permitted.

Withdrawal of Applications: During the hearing, an application can be withdrawn only with the consent of the Board. An application cannot be withdrawn at the conclusion of the hearing.

Preliminary Statement & Exhibits: After a hearing date is set but prior to the hearing of any application, the Chairman may require any party to submit a written statement. The form and content of such written statement shall be in the Chairman's discretion. The Chairman may also require any party to submit a set of pre-marked exhibits the party intends to enter into evidence.

Exhibits: Exhibits shall be pre-marked for identification and shall be offered in an orderly fashion. They shall be made available for examination by any and all parties. After the conclusion of the hearing, a copy of all exhibits accepted into evidence shall be given to the Secretary.

Testimony: Other than statements made by attorneys, all statements shall be made under oath and shall be subject to cross-examination. At the Chairman's discretion, testimony may be made by question and answer method or in statement form.

Evidence: Hearings shall be conducted in such a way that is calculated to result in a just and lawful determination of the issues as promptly as circumstances allow. The Chairman shall be the judge of all relevance and materiality of evidence. The Chairman may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness. Repetitive testimony by multiple witnesses shall not be allowed. Testimony unrelated to the application shall not be allowed. Personal attacks shall not be allowed.

Interpreters: The applicant and all other parties shall provide their own interpreters.

Order of Procedure: Generally, the order of procedure at public hearings is as follows:

- (1) Opening of hearing by Chairman;
- (2) Statement of Chairman summarizing application;
- (3) Swearing in of witnesses;
- (4) Opening statements (if any);
- (5) Presentation of direct case of applicant;
- (6) Presentation of parties supporting the application (if any);
- (7) Presentation of direct case of persons and entities objecting to the application (collectively, "objectors"); cross-examination of applicant's witnesses by objectors.
- (8) Cross-examination of objectors' witnesses by applicant; rebuttal testimony of applicant's witnesses (if any) and closing remarks by applicant;
- (9) Application taken under advisement by Board.

The Chairman, in his or her discretion, may choose to alter the order of procedure as circumstances may require. For instance, the Chairman may decide that an applicant's proposed Findings of Fact adequately explain the application to the Board. In such a situation, the Chairman may, in his or her discretion, allow three (3) minutes of testimony on the application and then open up the hearing to questions by the Board.

Subpoenas: For special uses and variations, the Board may issue subpoenas to compel attendance of witnesses or production of documents. Service of such subpoenas shall be in the same manner of service of summons as in a civil action.

Depositions: The Board may authorize the taking of depositions either upon its own motion or upon good cause shown.

Briefs and Oral Argument: The Chairman may call for briefs, oral arguments or both prior to, during or at the conclusion of any hearing. If the Chairman requests briefs during or at the conclusion of any hearing, a briefing schedule shall be entered, and the Board shall set another hearing date. Copies of all briefs and any replies thereto shall be served on the Chairman, the applicant and all other persons or entities that entered their appearance. In the event of oral argument, the applicant and all other persons or entities that entered their appearance shall be notified and will have a chance to be heard.

Continuances: Continuances are granted at the discretion of the Board. If a continuance is sought, the request shall be made by motion. Such motion shall be made in person and shall be made immediately upon the opening of the session in which the hearing on the application will be heard. Nevertheless, the Board may, in its discretion, grant a continuance on its own motion at any time.

Transcripts: A record of a hearing is not transcribed by a court reporter unless requested by the Board or any party interested in the hearing. The cost of such transcription shall be borne by the party requesting it. In cases filed pursuant to the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.* (the "Administrative Review Law"), the plaintiff shall: (1) pay for the cost of a certified transcript; and (2) provide the Board's attorney with a copy of the certified transcript so that the Board may prepare the record.

Scrivener's Error: Whenever a decision of the Zoning Board of Appeals contains an obvious numerical error or obvious misstatement, the applicant or any other person or entity that entered its appearance has the right to petition the Board to make corrections. Any request for a correction of error shall be presented to the Board within thirty (30) days after the date on which the decision was issued, as evidenced by time stamp. Any such request shall be made in writing filed with the Board with copies issued to all persons and entities (including the applicant, if applicable) that entered their appearance.

FINAL DISPOSITIONS

The Board's final decision on any application for appeal, variation, or special use shall be in the form of a written resolution. Said written resolution shall contain the necessary findings of fact to grant, modify, or deny the application. The concurring vote of three (3) members is necessary to grant an application. If a resolution fails to receive three (3) concurring votes, the application shall be deemed denied, and a written resolution denying such application shall be issued.

Administrative Review: All decisions and findings of the Board shall be final administrative determinations and shall be subject to judicial review pursuant to the Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

Obtaining Copies of the Board's Decision: A resolution shall be mailed to the applicant. A copy of the resolution shall also be mailed to all other parties that attended the hearing and entered their appearance along with a valid mailing address on the appearance sheet. If any party (including the applicant) was represented by counsel, a copy of the resolution shall be mailed to counsel instead of the party.

Public Records: A copy of every rule, regulation, variation, order, requirement, decision or determination of the Board shall be filed immediately with Office of the Zoning Administrator as a public record.

SUPPLEMENTAL RULE-MAKING AUTHORITY

From time to time, the Board may issue supplemental rules to these Rules of Procedure. These supplemental rules shall have the same force and effect as these Rules of Procedure but will address a more discrete practical problem or issue. If the Board finds that the problem or issue no longer exists, the Board shall rescind such supplemental rule.

For instance, the Board may decide to promulgate supplemental rules not inconsistent with the Zoning Ordinance with respect to what the Board expects of applicants for cannabis business establishments, including but not limited to the community meeting required by Section 17-13-0905-G of the Zoning Ordinance.

The Secretary shall keep copies of all supplemental rules issued by the Board and shall ensure that all current (i.e., non-rescinded) supplemental rules are posted to the Board's website.

EMERGENCY RULE-MAKING AUTHORITY

When, due to public disasters or other emergencies the State of Illinois and/or City of Chicago have, by executive proclamation or order, legislation or otherwise, limited where, when and/or how many people may publicly gather and/or the State of Illinois has suspended or modified portions of the Open Meetings Act for the public health, safety and welfare of the citizens of the State of Illinois and/or the City of Chicago, the Chairman shall have the power to promulgate emergency rules (including regarding public attendance and/or participation) not inconsistent with such directives from the State of Illinois and/or the City of Chicago. The Secretary shall ensure that such emergency rules are posted on the Board's website, and such emergency rules shall last until the State of Illinois and/or the City of Chicago rescind such directives.