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The Honorable Brandon Johnson  
*Mayor, City of Chicago*

CC:  
Alvin Starks  
*City Council Sergeant-at-Arms*

Chairwoman Michelle Harris  
*Committee on Committees and Rules*

December 2, 2023

Dear Mayor Johnson:

In recent weeks, members of the public—including representatives of the Better Government Association—have been denied access to the second floor of the City Council chambers and directed by security to observe proceedings from the third-floor gallery instead. These denials mark a change of policy, negatively affect access to meetings of this public body, and are an inequitable and likely illegal departure from past practice.

News reports indicate that the City Council Sergeant-at-Arms has imposed these changes in response to allegedly disruptive and profane behavior by people attending City Council meetings. Evidently, the new rules—which have not been voted on or published by City Council—allow entry to the second-floor gallery only to observers who are invited by public officials. With few exceptions, all others are relegated to the third-floor gallery. Even the microphones used for public comment have been moved there.

Access to the third-floor gallery is not the same as access to the second floor, where City Council members do the people's business. Because the third-floor gallery overhangs much of the chamber's second floor, attendees in the third-floor gallery cannot see most of the alderpeople. Attendees cannot be seen, and can barely be heard, by City Council members, too. In short, diversion to the third floor offers, at best, second-class status and degrades public access to meetings of this vitally important public body.

On several occasions you have responded to disruptions by clearing the public from the chambers. It is important, of course, that the sergeant deal promptly with any safety risk created by disruptive behavior. And it could be possible that in extreme instances the sergeant has a right to remove individuals whose words disrupt City Council proceedings. But lumping law-abiding and responsible citizens in with the disruptors, and clearing them from the chamber, denies their right to see their government at work.

The Illinois Open Meetings Act governs public access to meetings of Chicago's City Council, its committees and other public bodies. It requires that rules governing access and decorum are published, which helps to inform the public, aid in enforcement, and enable compliance. The act also requires that policies governing access must be set by a vote of the governing body—in this case, City Council. The authority to set such rules cannot be delegated to the sergeant or other officials.

In addition to being bad policy, we believe these new rules likely are illegal for several reasons. First, the Open Meetings Act does not allow for preferential treatment among different classes of attendees. See 5 ILCS 120/2.01 (meetings must be “open and convenient”); *Gerwin v. Livingston Cnty. Bd.*, 345 Ill. App. 3d 352, 358, 802 N.E.2d 410, 415 (2003) (meeting not “open” where preferential treatment given to attendees favorable to public body). Second, the third floor is not “convenient” under Section 2.01 due to the limitations described above. Third, those limitations of the third floor interfere with the public's right to record under Section 2.05. Finally, the restrictions interfere with the public's right to “address” the City Council under Section 2.06(g). Finally, these restrictions were not “established and recorded” by the City Council, and are therefore invalid unless and until the City Council votes on them, even if they were substantively proper.

Please note that, among other remedies, a court can declare null and void any final action taken in a meeting found to be “closed”—which includes meetings in which preferential treatment in access to the second floor is granted. Given the important work before the City Council, continuing to follow these vague rules, which the City Council itself has not even voted on, would risk vacating action taken at these meetings. Defending these rules would seem an unwise use of public resources. And, most importantly, continuing to apply these rules would deny the public's rightful access to meetings of City Council.

The Better Government Association has a 100-year history of ensuring government accountability, through application of the Open Meetings Act and other laws. If lawful



changes to existing policy are needed, our policy team would be pleased to work with the rules committee, individual alderpeople or city staff in promulgating new rules that provide appropriate public access while ensuring safety, decorum and adherence to the Open Meetings Act.

Until any such changes can be made, we respectfully request that the policies that have served City Council for years remain in place unless and until new policies are properly considered and adopted—in a public proceeding after appropriate public input. An open and free society relies on the ability of citizens to witness democracy in action, and we would be honored to contribute toward your efforts to ensure public access to the workings of Chicago's City Council.

Thank you for your attention to this important matter. Please respond to this note with information outlining the actions you plan to take in order to address concerns noted in this letter. We seek an outcome that will uphold the principles of transparency, equity and accountability in city government—in an environment that is safe and accessible for all stakeholders and contributes toward the effective functioning of City Council.

Sincerely yours,

A handwritten signature in cursive script that reads "David Greising".

David Greising  
President & CEO

*Better Government Association*