

From: smbisio@gmail.com
Sent: Friday, February 3, 2023 6:53 PM
To: 'Karen Delorge'
Cc: 'Jonathan Smith'; 'Thomas Ryan'; bisiolaw@gmail.com
Subject: RE: FOIA Response re: Millpond B&B
Attachments: 12-01-22 Ryan invoice notation.pdf; 11-07-2022 Kingsbury invoice - notation.pdf

Ms. DeLorge:

Thank you for your response.

You stated you found no correspondence between Clarkston or its agents or representatives and the owners of the Millpond Inn Bed and Breakfast within the last two years, but the response doesn't expressly deny that portion of the request as required by MCL 15.235(2)(b). When denying a request in whole or in part on the basis that the requested records do not exist, a public body is required to certify that the records do not exist (MCL 15.235(5)(b)) and to provide appeal and right to sue language (MCL 15.235(5)(d)).

I raise this issue again because my request asked for "all correspondence between Clarkston or its agents or representatives and the owners of the Millpond Inn Bed and Breakfast within the last two years . . . to include all records in the possession of any Clarkston charter officer, elected official, appointed official, contracted official, employee, or the Office of the City Attorney." I've attached a copy of the December 2022 billing from the city attorney that references "B & B response to notice of violation." While it's possible that the response was oral, it's unlikely. If there is an existing written response to the notice of violation that was made to any Clarkston charter officer, elected official, appointed official, contracted official, employee, or the Office of the City Attorney, it should have been included in your response to my request.

The request also asked for "a copy of all non-privileged correspondence within OR between the city and any other person or business concerning the Millpond Inn Bed and Breakfast within the last two years . . . to include all records in the possession of any Clarkston charter officer, elected official, appointed official, contracted official, employee, or the Office of the City Attorney." This would include internal communications (including emails and text messages) among city personnel, including the code enforcement officer, the city manager, and the city attorney. The city attorney billing references correspondence from the code enforcement officer and the city manager, and the code enforcement officer's billing references correspondence from Jennifer Speagle and correspondence to Jonathan Smith, which were not provided. If there are any written communications (including emails or text messages) among the city's agents (including emails or text messages from or to the code enforcement officer, the city manager, or the city attorney), they should have been included. The failure to include such records when the city attorney's and code enforcement officer's billing records indicate otherwise brings into question the thoroughness of the city's efforts to find responsive records. I

request that you confirm that the city thoroughly reviewed all sources of responsive records, including offsite files, emails (including Jennifer Speagle's email account), and electronic devices maintained by the code enforcement officer, the city manager, and the city attorney and any other city agent involved in this matter. In the event that you locate text messages, a screenshot will be sufficient.

Your response to this request again refers to "existing, non-exempt records" within the scope of the request. If there are exempt records that the city is withholding, the city's response must explain the basis for an exemption claim. MCL 15.235(5)(a). I request that you clarify whether the city is withholding records based on an exemption claim and otherwise comply with the FOIA requirements for claiming exemptions.

Please advise.

Kindest regards,
Susan Bisio

From: Karen Delorge <delorgek@villageofclarkston.org>
Sent: Friday, February 3, 2023 2:13 PM
To: smbisio@gmail.com
Cc: Jonathan Smith <smithj@villageofclarkston.org>; Thomas Ryan <sylvanlaw@aol.com>
Subject: FOIA Response re: Millpond B&B
Importance: High

Date: 02/03/2023

To:

Susan Bisio

P.O. Box 1303

Clarkston, MI 48347

Please see the attachment(s) for your FOIA response letter and supporting documents.

Thank you & Kind regards,

Karen A. DeLorge, City Clerk

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