

From: smbisio@gmail.com <smbisio@gmail.com>

Sent: Tuesday, February 7, 2023 12:51 PM

To: 'Karen Delorge' <delorgek@villageofclarkston.org>

Cc: 'Jonathan Smith' <smithj@villageofclarkston.org>; 'Thomas Ryan' <sylvanlaw@aol.com>; bisiolaw@gmail.com

Subject: RE: FOIA Response re: Millpond B&B

Thanks for the follow up, Karen. I realize it's difficult when you are new because you wouldn't necessarily know who to ask or where to look. The only reason that I attached the billing records was to provide an example showing that there were communications that at least involved Mr. Smith, Ms. Speagle, Ms. Kingsbury, and/or Mr. Ryan, so they should be asked to search for responsive records.

Mr. Ryan's billing record seems to indicate that the Millpond Inn owners responded to the violation, which appears to potentially be responsive to request #2, and Ms. Kingbury's and Mr. Ryan's bills reference communications that appear to be potentially responsive to request #3. Other people may have records, for example, city council or planning commission members, and I wouldn't have any way of knowing that. Unless you have the ability to search everyone's files for responsive records, which might include personal email accounts, you're going to have to ask individual people to help you to search because they'll know if they have records and if so, where they might be. Or you could ask Mr. Smith who might have responsive records since he was involved and likely would have a better idea where to look.

For whatever it's worth, whenever I handled a FOIA request, I would forward it anywhere that that I thought there reasonably might be records, and I asked that person to respond by forwarding any records to me so I could review them and decide whether they were responsive and whether any exemptions applied. Sandy Miller (Jennifer Speagle's predecessor) created a form for her searches (attached), but that was just something that worked for her. I think Ms. Miller sent these forms to me along with her response to my FOIA request to show me where she'd searched, but sending search forms with responses is not required.

I know that responding to FOIAs can very time-consuming, and I want you to know that I appreciate your efforts.

Thanks,
Susan

From: Karen Delorge <delorgek@villageofclarkston.org>
Sent: Monday, February 6, 2023 4:58 PM
To: smbisio@gmail.com
Cc: Jonathan Smith <smithj@villageofclarkston.org>; Thomas Ryan <sylvanlaw@aol.com>; bisiolaw@gmail.com
Subject: Re: FOIA Response re: Millpond B&B

Hi Susan Bisio,

I have been double checking any past correspondence that Jennifer Speagle's email account – I am still looking for any “and the code enforcement officer’s billing references correspondence from Jennifer Speagle” and working on the rest of your request.

Karen A. DeLorge, City Clerk

City of the Village of Clarkston
375 Depot, Clarkston, MI 48346
delorgek@villageofclarkston.org
Office: (248) 625-1559
Fax: (248) 625-3770

From: smbisio@gmail.com <smbisio@gmail.com>
Sent: Friday, February 3, 2023 6:53 PM
To: Karen Delorge <delorgek@villageofclarkston.org>
Cc: Jonathan Smith <smithj@villageofclarkston.org>; Thomas Ryan <sylvanlaw@aol.com>; bisiolaw@gmail.com <bisiolaw@gmail.com>
Subject: RE: FOIA Response re: Millpond B&B

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: sembisio@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

City of the Village of Clarkston

375 Depot, Clarkston, MI 48346

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