

**From:** Karen Delorge <delorgek@villageofclarkston.org>  
**Sent:** Friday, February 17, 2023 11:15 AM  
**To:** smbisio@gmail.com; bisiolaw@gmail.com  
**Subject:** Re: FOIA follow up

Hi Susan,

Please know that I am working on answering your questions below, but I will require more time to do so. I cannot comply with the request for records within the 5 business day time limit without unduly burdening or interfering with the City of the Village of Clarkston's operations. Jonathan Smith, City Manager is currently out of office which leaves me as the sole full-time employee.

***Karen A. DeLorge, City Clerk***

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**From:** [smbisio@gmail.com](mailto:smbisio@gmail.com) <[smbisio@gmail.com](mailto:smbisio@gmail.com)>  
**Sent:** Sunday, February 12, 2023 3:09 PM  
**To:** Karen Delorge <[delorgek@villageofclarkston.org](mailto:delorgek@villageofclarkston.org)>  
**Subject:** FOIA follow up

Dear Ms. DeLorge:

I appreciate the additional information, but after reviewing what the city provided on Thursday, I still think that there are missing records. For ease of reference I have attached the emails that I have questions about, as well as a cut and paste of my FOIA request #2 and #3 below for ease of reference.

FOIA request #2:

"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."

FOIA request #3:

"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. By way of example, but not limitation, this would include records of code officer or building inspection reports, any violations issued, or resident/business/council member complaints [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."

The following questions refer to documents that I extracted from the city's response to my request titled "Scan of Millpond Inn Correspondence." I've attached these emails and highlighted them to make it easier to see what I'm referring to.

Email #1:

This email includes an 11/10/21 Notice of Violation from Code Enforcement Services. The attached letter begins: "It has come to our attention, through a concerned 3<sup>rd</sup> party . . . " Is there any subsequent correspondence relating to the Notice of Violation, including include any written response to the Notice of Violation? If so, those records would be responsive to FOIA request #2.

Are there any records of the "concerned 3<sup>rd</sup> party" complaint? If so, those records would be responsive to FOIA request #3.

Email #2:

This 10/11/22 email from Jennifer Speagle references an intended follow up with Susan Weaver and appears to refer to the code enforcement violation in Email #1. Was there any subsequent written communication exchanged between Speagle and Weaver in response to this email, or any further communication from Speagle regarding the promised update? If so, these records would be responsive to FOIA requests #2 and #3.

Email #3:

The 10/26/22 email from Johnathan Smith to Stacy Kingsbury indicates there was an attachment, but it wasn't included. The 10/26/22 email from Kingsbury to Smith, Speagle, Weaver, and Jeff Shafer references a draft of a letter that was also not included. Any attachments are part of the email communication and these attachments would be responsive to FOIA request

#3. (Even if not attached to the email, the notice and letters would be responsive to FOIA request #2 or #3.)

Email #4:

The 11/16/22 email (12:16 p.m.) from Tom Ryan to Kingsbury advises that a civil infraction should be issued. Has one been issued? If so, this record would be responsive to FOIA request #2.

The 11/16/22 email (8:28 a.m.) from Smith to Kingsbury references an attached response from the Millpond Inn. This attachment was not included and would also be responsive to FOIA request #2. (Please note that there is also a reference to the existence of the response to this Notice of Violation in Ryan's December 1, 2022 legal services bill that I previously forwarded that he described as "BB response to Notice of Violation" in the billing entry.)

Email 5:

Eric Haven's 10/10/22 email asked for information regarding any previous complaints from Mary Kuhn about the Millpond Inn, and his 10/11/22 email asked Speagle to forward any other written complaints from Kuhn. I didn't see any response to that email. If there were written complaints from Kuhn (or anyone else) about the Millpond Inn, those records would be responsive to FOIA request #3.

This email string also contains a 10/11/22 email from Speagle to Haven and Ryan, stating that she has been "emailing back and forth" with Kingsbury. Emails between Speagle and Kingsbury from 10/11/22 and before were not provided but would be responsive to FOIA request #3.

I would appreciate it if you would provide the records as soon as possible. If the referenced records don't exist, then the city's response should certify their nonexistence. If the city is withholding something under an exemption claim, it needs to describe what's being withheld and note which exemption applies.

The response doesn't evidence an effort by city officials to search off-site and personal email files. Please be advised that such records of the conduct of city business are public records regardless of whether they may have been copied to someone with a city email address. I once again ask that the city make a full review of all sources of responsive records, including email files of those persons acting on behalf of the city who used other emails systems and addresses besides the city's email system.

Thank you,  
Susan Bisio