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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-11
September 26, 2024
State Public Information Act Compliance Board, Custodian
John Davis, Complainant

On July 18, 2024, our Board received a Public Information Act (“PIA”) request for “all documents and records” of our Board members and staff “communicating about any matter directly or indirectly related to Adam Barry.” We sent a response to the PIA request on August 15, 2024. We produced responsive email records, including attachments, with redactions for sociological information. See § 4-330.¹ We denied inspection of seven email records under §§ 4-301(a)(1), 4-343, and 4-344 of the PIA. We indicated that those records were protected by both the attorney-client and the deliberative process privileges. We also denied inspection of one email record and draft pleading attached to that email under §§ 4-343 and 4-344, as subject to the deliberative process privilege and the attorney work product doctrine. In our response letter we provided the following notice of remedies:

The PIA provides certain remedies for a requester who disagrees or is dissatisfied with a custodian’s response, including the right to seek judicial review of the custodian’s decision in court, GP § 4-362, and/or to submit the disputed matter to the Ombudsman, GP § 4-1B-04. In the event that a dispute is not resolved through the Ombudsman, a party ordinarily may be eligible to file a complaint with the Public Information Act Compliance Board. See GP §§ 4-1A-04 and 4-1A-05. *However, in this case, the Board reasonably believes that it cannot review complaints about its own responses to PIA requests. See GP § 4-1A-07(c)(2) (“A decision of the Board may state that the Board is unable to resolve the complaint.”).*

(emphasis added).

The complainant then filed this complaint.² The complainant alleges that we improperly denied his PIA request. For obvious reasons, we cannot review or resolve

¹ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

² The complainant first contacted the Public Access Ombudsman. The Ombudsman issued a statement in which she indicated that she was unable to mediate the matter due to a conflict. See COMAR 14.37.02.07C(3) (providing that, “[i]f the Ombudsman is unable to proceed in a neutral,

disputes about our own responses to PIA requests to this Board. Thus, we conclude that we are unable to resolve this complaint. § 4-1A-07(c)(2)(i); *see also* § 4-1A-07(c)(2)(ii) (“A person may not appeal under § 4-1A-10 of this subtitle or § 4-362(a)(2) of this title a decision of the Board stating that the Board is unable to resolve the complaint.”). A person may file a petition for judicial review of a custodian’s denial of a PIA request in circuit court under § 4-362(a)(1).

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impartial, and independent manner,” then the Ombudsman must withdraw from the mediation and issue a final determination “stating that the dispute was not resolved through the Ombudsman due to conflict”).