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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-92
October 21, 2025
City of Takoma Park, Custodian
Randall Marks, Complainant

In June of 2024, complainant Randall Marks sent a Public Information Act (“PIA”) request to the City of Takoma Park (“City”) asking for records related to code enforcement at a specific address. The City produced records in response to the request but withheld one record and redacted others under § 4-301(a)(1)¹ of the PIA, citing the attorney-client privilege. In this complaint, the complainant challenges the application of § 4-301(a)(1), contending that the City has not provided enough information to judge whether the records are covered by the exemption. The complainant also alleges that the City has not produced all responsive records, citing a lack of records related to a June 2024 violation notice, and noting that the City has not “represented unequivocally that it has produced all responsive non-privileged documents.” The City, through counsel, maintains that it has complied with the PIA, and has not failed to produce any responsive records other than those subject to an exemption. The City also asserts that the PIA does not require it to issue the unequivocal statement that the complainant desires. After review of the submissions, we find no violation of the PIA and explain in more detail below.

Background

On June 26, 2024, the complainant sent a PIA request to the City seeking “all documents” that related to “code enforcement action” at a specific address in the City. The complainant explained that he was “primarily seeking emails among Code Enforcement staff [r]egarding [his] property and any other communications with other city staff and contractors,” and that he was “not seeking any documents sent to [him] or received from [him].” On July 11, 2024, which was a Thursday, the City contacted the complainant by email and stated that it had “pulled together information responsive to [the] request,” but that review was needed and that the City “hoped to get the information to [him] by Friday.” The City apparently did not produce the response at that time, however, as the complainant emailed the City on July 30, 2024, to ask if there had been any progress. On August 2,

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

2024, the City produced responsive records.² In its response letter, the City stated that one email from the City Attorney was withheld, and that attorney-client privileged communications had been redacted from two email chains. The City cited § 4-301(a)(1) of the PIA as authority to withhold those communications.

On October 6, 2024, the complainant sent an email to the City expressing concerns about its response to his PIA request. First, the complainant noted that the response contained “zero documents concerning the underlying alleged Code violations that prompted [the] request.” The complainant found it “inconceivable that the alleged violations generated no internal records.” The complainant also pointed to a specific email, sent in September 2022, that indicated that Code Enforcement had “reported that the resident had complied with the notice,” and asked whether the report was in writing and, if so, why the report had not been produced. The complainant also raised concerns about the redactions, questioning whether the attorney-client privilege applied. According to the complainant, the sender and recipient of the emails were not attorneys, the emails themselves did not “contain the name of an attorney,” and the subject matter did not “appear to have required legal involvement.” The complainant also asked that if the City, “after reviewing [his] reasons for skepticism,” determined that the attorney-client privilege applied, the City waive the privilege as to the redacted material.³ On October 18, 2024, the complainant sent another email, advising that he would “appreciate knowing whether, and if so when, you intend to respond.”

On October 31, 2024, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance with his concerns that the City improperly redacted and withheld records and did not produce all responsive records.⁴ Later that same day, the City sent the complainant an email apologizing for the delay and stating that “after the election is over,” the City would “be able to spend time to see if there was information missed in [the] original response.” Through the mediation process, the City issued a supplemental response and produced additional records, as well as records already produced but with certain redactions removed. On May 31, 2025, however, the

² According to the City’s response to this complaint, the City produced approximately seventy pages of records with its August 2, 2024, response.

³ The complainant also expressed his view that the City’s response letter did not “comply with the spirit of the Maryland Public Information Act,” and, citing § 4-203(c), asked the City to provide a “brief description of the withheld record that will enable the applicant to assess the applicability of the legal authority for the denial.”

⁴ The PIA directs the Public Access Ombudsman to “make reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records.” § 4-1B-04(a). Before submitting a complaint to our Board, a complainant must attempt to resolve a dispute through the Ombudsman and receive a final determination that the dispute was not resolved. § 4-1A-05(a).

Ombudsman issued a final determination stating that the dispute was not resolved and the complainant filed this complaint with our Board.

In his complaint, the complainant alleges that the City's claim that certain records reflecting communications between the City Attorney and code enforcement employees are protected by the attorney-client privilege is "questionable," given that the City has not provided the "authors, recipients, dates, and subject lines of each email." The complainant asserts that the "sufficiency of the City's search" is also called into question because the City has not produced any records related to a June 2024, violation notice. Finally, the complainant disputes the City's failure to represent "unequivocally that it has produced all responsive non-privileged documents," stating that a "clear statement to that effect (perhaps with additional documents or information) would go a long way to assuring it has complied with the PIA."

The City, through counsel, responds to the complaint and denies that the City has violated the PIA.⁵ Regarding the City's application of the attorney-client privilege, counsel for the City states that the complainant is mistaken in his belief that the City is still withholding an entire set of email communications. Counsel notes that, in its supplemental response, the City indicated that it had "revised redactions to the previously produced emails and its redaction approach relating to the previously withheld emails," such that the "emails identified in the City's August 2, 2024, letter as being withheld . . . were redacted and provided on May 30, 2025." Counsel for the City contends that the complainant's "concerns regarding the authors, recipients, dates, or the subject lines were addressed by the production associated with the City's May 30, 2025, letter." Counsel maintains that the remaining redactions are appropriate under § 4-301(a)(1), because the material constitutes protected attorney-client communications.⁶

Moving to the complainant's allegation that, because the City has produced no records concerning a June 2024 violation notice, the City's search must have been insufficient, counsel for the City advises that the City has now "identified records related to a June 2024 violation notice," and provided them to the complainant. The City attaches those records with its response to the complaint. The records total five pages and appear to have been taken from a case database entry that was created on June 14, 2024, and modified on July 8, 2024. The records detail the "property history," "notes," and "tasks"

⁵ Counsel for the City sent a response to the complaint on July 31, 2025, in which he stated that the City was not aware of any June 2024 violation notice involving the complainant. The complainant, in reply, called counsel's statement "patently false," and attached a copy of the June 2024 notice. After receiving the complainant's reply, counsel for the City submitted an amended response in which he addresses that notice. We thus detail only the amended response.

⁶ Notably, in a reply sent on August 11, 2025, the complainant states "[a]lthough no federal court would regard the City's privilege red[a]ctions as sufficient to establish the attorney-client privilege, I withdraw Objection 1." We therefore do not address this allegation further.

related to a code enforcement inspection. Counsel for the City states that, in light of the complaint's focus on the June 2024 violation notice, "the City is not certain that [the] previous concern about the absence of documents reporting that [the complainant] complied with violation notices in 2021 and 2022 is relevant to this complaint." Still, counsel states, the City looked for other records concerning the complainant's compliance with code enforcement and notes that the City produced records related to "sidewalk overgrowth first observed on August 10, 2022."

Counsel asserts that the City "conducted multiple email searches that produced the records provided to [the complainant] on August 2, 2024, and May 30, 2025," all free of charge. Counsel for the City also states that the City conducted "an expanded IT search" and found "17 additional emails totaling 90 pages." That search apparently included a search of "employee email accounts from January 1, 2017, through July 3, 2025." Counsel for the City maintains that the City has complied with its obligations under the PIA, and stresses that the PIA does not require a custodian to issue an "unequivocal statement" that it has produced "all non-privileged responsive documents."

We received two replies from the complainant, one sent after the City's initial response to the complaint and one sent after the City provided its amended response, *see supra*, note 5. As noted above, the complainant no longer challenges the application of the attorney-client privilege under § 4-301(a)(1). In his first reply, the complainant asks that we "hold that when a requester has doubts about the sufficiency of a response, a clear statement of compliance is required to complete the response." In his second reply, submitted after receiving the City's amended response, the complainant acknowledges the City's production of records concerning the June 2024 violation notice and states, "[i]f those pages are all the responsive documents, then the City is correct that their production moots Objection 2," regarding the alleged insufficient search. The complainant asks that we "order the City to produce all responsive documents or state that it has done so."

Analysis

We are authorized to review and resolve complaints alleging certain violations of the PIA's provisions, including that a custodian improperly denied inspection of a public record. § 4-1A-04(a)(1)(i). We have interpreted our authority under § 4-1A-04(a)(1)(i) to include authority to review so-called constructive denials—e.g., allegations that a custodian's insufficient search led to a failure to produce all responsive records. *See, e.g.*, PIACB 23-03, at 3-4 (Nov. 2, 2022). When we receive a complaint, we forward it to the relevant custodian and ask for a written response. § 4-1A-06(a). If, after review of the parties' submissions, we find that a custodian has wrongfully denied inspection of a public record, we must "order the custodian to . . . produce the public record for inspection." § 4-1A-04(a)(3)(i). When we determine that an unreasonable and insufficient search led to a constructive denial, we may direct the custodian to perform an additional search and

“produce any non-exempt responsive records to the complainant.” PIACB 24-08, at 6 (Sept. 28, 2023).

Maryland’s General Assembly enacted the PIA as a means to ensure “access to information about the affairs of government and the official acts of public officials and employees.” § 4-103(a). Thus, the PIA generally requires that custodians of public records allow inspection and copying of those records, unless an exemption from disclosure applies. §§ 4-201(a), 4-205(b). Accordingly, when custodians receive PIA requests, they must “conduct a search in good faith that is reasonably designed to capture all responsive records,” and that uses “methods that can be reasonably expected to produce the information requested.” *Glass v. Anne Arundel County*, 453 Md. 201, 232 (2017) (quoting *Oglesby v. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)). The adequacy of a search is “measured by whether it is reasonably calculated to uncover responsive records, not by whether it locates every possible responsive record.” *Id.* at 212. Though a search may be “reasonable and adequate without being perfect,” a custodian should provide “reasonable assistance” to a requester in an effort to produce all the non-exempt records the requester is seeking. *Id.* at 232.

The primary issue for us to resolve is whether the City has produced the non-exempt records responsive to the complainant’s PIA request for “all documents,” other than those sent to or received from the complainant, “relating to code enforcement action” at a specific address. To make a determination, we must evaluate the search the City undertook to find responsive records. The submissions provided insufficient facts, so we asked the City to provide an affidavit from a person with knowledge describing the steps the City took to look for records.⁷ See § 4-1A-06(b)(4) (allowing our Board to request “an affidavit or a statement containing the facts that are at issue”). In response, we received an affidavit by Jessie Carpenter, the City Clerk for the City of Takoma Park (“Carpenter Affidavit”). Ms. Carpenter oversees the City’s responses to PIA requests and is familiar with the complainant’s PIA request and the City’s response to it.

According to her affidavit, once the City received the complainant’s PIA request, Ms. Carpenter contacted the Director of the Housing and Community Development Department (“HCDD”) and asked him to review the department’s records and respond to Ms. Carpenter with the results. The Carpenter Affidavit explains that the Code Enforcement Division is part of the HCDD. The affidavit further explains that “City staff [have] been instructed to be overly inclusive in providing responses to requests for records.” The Carpenter Affidavit states that the Director of HCDD provided records,

⁷ Counsel for the City provided some information about the search in the City’s response to this complaint. Our request for this affidavit is not meant to suggest that we disbelieve counsel’s representations, but, as we have said before, we cannot “rely on counsel’s unsworn statement alone.” PIACB 24-100, at 12 n.10 (Sept. 12, 2024).

including email records, which Ms. Carpenter reviewed for responsiveness and any exemptions from disclosure. After review, the City produced records to the complainant.

The Carpenter Affidavit further states that, on February 21, 2025, (after the complainant contacted the Ombudsman), Ms. Carpenter “submitted a request for a search of emails by IT,” but that “[n]o new information was obtained as part of this search as far as [Ms. Carpenter] was able to discern.” After the complainant submitted this complaint to our Board, “a City IT specialist was directed to conduct a search of Code Enforcement email accounts for Duane ‘Rick’ Baravecchia, Timothy Gratton, and a general Neighborhood Services email account.” The Carpenter Affidavit states that the IT specialist used the complainant’s name and home address for the search, which included records for the time period June 1, 2024, through July 3, 2025.⁸ Apparently a “similar search was done for Patricia Johnson’s email account, but the time period was January 1, 2017, to July 4, 2025.” The Carpenter Affidavit avers that “[t]his review led to the City’s July 31, 2025, supplemental response.”

With the additional information supplied by the Carpenter Affidavit, we find that the City’s searches, taken together, complied with what the PIA requires. The complainant’s PIA request asked for “all documents” that related to “code enforcement action” at his address, which he provided. The complainant advised that he was primarily interested in emails exchanged by Code Enforcement staff regarding his property, and not emails for which the complainant was the sender or recipient. Maryland’s Supreme Court has explained that the reasonableness of a search “must be measured against the specificity of the request,” *Glass*, 453 Md. at 233, and here the PIA request was fairly specific. The Carpenter Affidavit states that the City looked for records within the HCDD, where Code Enforcement is located—thus it appears that the City “focused on where responsive records [were] likely to be found.” *Id.* at 232. However, the Carpenter Affidavit does not provide detailed information about *how* the HCDD Director searched for responsive records, only that he provided records to Ms. Carpenter, who reviewed and produced them to the complainant. Looking at the records that the City produced though, which the City attaches with its response, it is clear that email records were searched, as the City provided emails exchanged between Code Enforcement staff and other City personnel.

Though we cannot say for certain that the City’s initial search for responsive records was reasonable under *Glass*—review of the records produced to the complainant after this complaint was filed reveals that a number of additional responsive emails were produced

⁸ We later asked the City for additional clarification about this keyword search, specifically whether there was one search that included both terms, or if separate searches were conducted. In response, the City advised that IT staff “used an approach to gather the most possible emails by using the ‘or’ query operator as opposed to the ‘and’ query operator.” This was done, the City explains, to “gather any email that contains [the complainant’s] name or his home address even if only one of the two terms is in the email.”

and thus apparently missed in the initial search⁹—it seems to us that, at this point, the City’s search efforts have complied with the PIA. The Carpenter Affidavit indicates that additional searches of specific Code Enforcement employee email accounts, as well as a general services account, were performed using the complainant’s name and address as keywords. The searches were conducted using the “or” query operator, thus ensuring that the results were not limited to emails that contained both the complainant’s name and address. Those searches captured additional responsive records, including records related to the June 2024 violation notice that the complainant specifically identified. Taken together, the searches the City performed appear “reasonably designed to capture all responsive records,” *Glass*, 453 Md. at 232, i.e., records of emails exchanged between Code Enforcement staff concerning enforcement at the complainant’s address.

In his complaint, the complainant states that the City “has not represented unequivocally that it has produced all responsive non-privileged documents,” and, in his reply, asks that we “order the City to produce all responsive documents or state that it has done so.” The PIA does not require a custodian to provide such a statement. Rather, the PIA requires a reasonable search for responsive records, which is “measured prospectively by how the agency designed the effort to find responsive records, *not retrospectively by its success in locating every responsive record.*” *Glass*, 453 Md. at 232 (emphasis added). We do not have authority, under the PIA, to order a custodian to certify that it has produced all records responsive to a PIA request. Rather, under § 4-1A-04(a)(3)(i), we must direct a custodian to “produce the public record for inspection” if we determine that inspection was improperly denied. Hence our focus on the steps that the City took to look for responsive records. After consideration of the submissions, including the Carpenter Affidavit, we find that the City’s searches, taken together, satisfied the PIA—even if its initial search for responsive records may have fallen short.

Conclusion

Based on the information before us, we find no violation of the PIA. Although we do not determine that the City’s initial search for responsive records alone was reasonable under the PIA, the searches that the City has performed, taken together, comply with what is required under *Glass*.

Public Information Act Compliance Board

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

⁹ We do note, however, that some of these emails would have been excluded based on the language of the complainant’s PIA request, as the complainant was either a sender or recipient.