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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-14
December 11, 2025
Town of Ocean City, Custodian
Robert Knauer, Complainant

Last spring, complainant Robert Knauer sent a Public Information Act (“PIA”) request to the Town of Ocean City (“Town”) seeking a variety of records, generated during certain specific timeframes, that referenced his name or a specific address in the Town, or that generally concerned rental properties. After corresponding with the complainant to narrow the PIA request, the Town sent the complainant a letter with an estimated fee of \$920.30 for responding to the request. The Town asked the complainant to pay a deposit of \$500 before work on the response would begin. The complainant alleges here that the \$920.30 estimated fee is unreasonable. In particular, the complainant focuses on the fees charged for the lawyer’s time, calling them “significantly unreasonable.” In response, the Town contends that the estimated fee complies with § 4-206¹ of the PIA, which allows a custodian to charge a reasonable fee for the search for and preparation of records in response to a PIA request. After review of the submissions, we conclude that the estimated fee is unreasonable in certain respects and direct the Town to reduce the estimated fee as detailed below.

Background

The facts below are taken from the parties’ submissions. On April 28, 2025, the complainant submitted a PIA request to the Town asking for “correspondence, documents, text messages, emails or phone records,” generated on specific dates in March and April of 2025, that concerned him or a specific address in the Town, or zoning and rental properties more generally. On May 1, 2025, counsel for the Town sent the complainant an email asking for clarification as to certain aspects of the PIA request. Counsel noted that one aspect of the request, which asked for records of correspondence between council members, the Mayor, the Town Manager, Assistant Town Manager, and employees, was “extremely broad” and would “return an extremely large number of documents and emails alone.” Counsel asked whether there were specific employees the complainant had in mind. As to other aspects of the request, counsel noted that “Planning and Community Development” was not a specific person and asked the complainant to specify which people

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

he was referring to. In response, the complainant revised his request by canceling some parts and providing specific search guidance as to others.

On May 9, 2025, the Town sent the complainant a letter that reflected his narrowed PIA request as follows:

1. Any correspondence, documents, text messages, emails or phone records (Private or Official) referencing Robert Knauer or [a specific address], between Town Council Members, between Town Council Members and the Mayor, between Town Council Members and the Town Manager, between Town Council Members and the Assistant Town Manager, and between the Town Manager or Assistant Town Manager and any employee regarding Robert Knauer or [a specific address]. [Generated on March 3-6, 2025.]
2. Any correspondence, documents, email or phone records generated between Town of Ocean City employees (Planning and Community Development and Airbnb). [Generated on March 3-6, 2025.]
3. Any Correspondence, documents, text messages, emails or phone records between Town Council Members, between Town Council Members and the Mayor, between Town Council Members and the Town Manager, between Town Council Members and the Assistant Town Manager, between Mayor and Town Manager, and between the Town Manager or Assistant Town Manager and any employee regarding Robert Knauer or [a specific address]. [Generated on April 24 and 25, 2025.]
4. Any document, report, data or information available demonstrating rental non-compliance for all zoning districts in Ocean City. [Generated from March 3 to April 25, 2025.]
5. Any Correspondence, documents, text messages, emails or phone records (Private or Official) that include Councilwoman Proctor in reference to: Robert Knauer, [specific address]. [Generated from March 3 to April 25, 2025.]

The Town advised that it would take longer than ten working days to produce the records² because the PIA request sought “a large number of records that need[ed] to be retrieved, reviewed, and perhaps redacted.” The Town also provided an estimated fee of \$920.30,

² See § 4-203(b)(2) of the PIA, which requires a custodian who believes that it will take more than ten working days to produce a public record to notify the requester of that fact in writing and provide certain information, including the reason for the delay and “an estimate of the range of fees that may be charged to comply with the request for public records.”

which reflected an anticipated 8.5 hours of work, with no charge for the first two hours.³ Copying or other reproduction costs were not included in the estimated fee. The Town asked the complainant to pay a deposit of \$500 before work on the response would begin.

The complainant responded to the Town in a letter dated May 12, 2025. Expressing his view that the estimated cost was “unreasonably high” and appeared to include legal review fees, the complainant asked for a “detailed itemization of the charges.” The complainant stated that he was “willing to pay a fair and reasonable amount for the records, consistent with the PIA’s guidelines,” and asked the Town to provide a revised cost estimate. On May 13, 2025, the Town sent the complainant a letter in response, providing a breakdown of the \$920.30 estimated fee. The Town advised that it would take Town staff two hours (provided free of charge) to locate and retrieve records, and the IT Director another two hours (charged at an hourly rate of \$66.40) to locate and retrieve email records. Finally, the Town advised that “review and redaction of records by legal” would take 4.5 hours charged a rate of \$175 per hour. The Town also stated that none of the time that the Town’s attorney had “spent communicating with [the complainant] in narrowing the request” had been included in the cost estimate, nor had the time spent by Town staff consulting with the attorney. The Town took the position that legal review was necessary due to the “nature of the documents” the complainant requested.

On May 19, 2025, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance,⁴ contending that the Town’s fee estimate was excessive and unreasonable. On July 25, 2025, the Ombudsman issued a final determination stating that the dispute was not resolved and the complainant then filed this complaint with our Board. The complainant alleges that the \$920.30 estimated fee is unreasonable, noting that “[m]ost of the cost was for lawyer fees which seemed significantly unreasonable.”

In response to the complaint, the Town defends its fee estimate. Referring to the fee breakdown provided to the complainant in its May 13, 2025, the Town states that it in fact took Town staff and the IT Director two hours each (for a total of four hours) to locate and retrieve records. Turning to the time charged for review and redaction—4.5 hours at the attorney’s \$175 hourly rate—the Town asserts that legal review is necessary because “the request involves correspondence, text messages, emails and phone records of the 7 Ocean City Council members, the City Manager and Assistant City Manager.” In addition, the Town states, “there were ongoing legal issues with [the complainant] at the time of his

³ See § 4-206(c) (custodian may not charge for the first two hours of labor).

⁴ The Public Access Ombudsman is charged with making “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 stating that the dispute was not resolved. § 4-1A-05(a).

request and around the dates requested.” Thus, in the Town’s view, “it was only appropriate for the Town Attorney to search through the 7 Ocean City Council members, the City Manager and Assistant City Manager cell phones for text messages because of the personal nature of such intrusion.”

Stressing that § 4-206 permits a custodian to charge a requester for legal fees, the Town contends that its 4.5 hour time estimate is reasonable. This is so, the Town maintains, in light of “the number of emails produced and the time it will take to meet with 9 Town officials and search the text messages of each person.” The Town also explains that it has “never had a staff attorney but rather employs an outside law firm on all matters,” and that the firm’s \$175 hourly rate is at least fifty percent less than its standard hourly rate. The Town asserts that “[t]he amount of time the Town has not charged [the complainant] related to this public information act request is significant,” and asks that we find the \$920.30 estimated fee reasonable under the PIA.

The complainant, in reply, emphasizes that he has “made every effort to cooperate fully and minimize any burden on the Town,” and has “narrowed the scope of [the] request to be as specific as possible.” The complainant suggests that the Town’s position is “intended to deter [him] from pursuing the requested information.” Contending that the “Town’s decision to engage outside counsel for 6.5 hours⁵ of work significantly inflated the cost,” the complainant argues that a PIA request is “primarily an administrative function, and most of the requested information could have been gathered by Town employees, with only a final review conducted by legal counsel if necessary.” Noting the Town’s reference to “ongoing legal issues,” the complainant expresses his belief that he was “subjected to intimidation, harassment and bullying by the Town of Ocean City as a result of [his] exercising [his] first amendment rights,” and that the Town is attempting to “discourage [him] from obtaining the requested records,” which he asked for to “understand the basis of [the Town’s] actions against [him] and to ease [his] concerns of being targeted.”

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian charged an unreasonable fee higher than \$350 to produce records in response to a PIA request. § 4-1A-04(a)(1)(ii). When we receive a complaint, we forward it to the relevant custodian for a written response. § 4-1A-06(a). If, after review of the parties’ submissions, we find that a custodian charged an unreasonable fee, we must order the custodian to “reduce the fee to an amount determined by the Board to be reasonable and refund the difference,” if applicable. § 4-1A-04(a)(3)(ii).

⁵ The Town’s cost breakdown and response to this complaint indicate 4.5 hours of anticipated time by counsel.

Maryland's Legislature enacted the PIA as a means to access "information about the affairs of government and the official acts of public officials and employees." § 4-103(a). Generally, its provisions must be interpreted in favor of disclosure of public records with "the least cost and least delay." § 4-103(b). At the same time, § 4-206 of the PIA permits a custodian to charge a "reasonable fee" for the work associated with responding to a PIA request, as well as reproduction costs. § 4-206(b). For purposes of the PIA, a "reasonable fee" is one that bears a "reasonable relationship to the recovery of actual costs incurred by a governmental unit." § 4-206(a)(3). Actual costs include the costs of searching for, preparing, and reproducing the responsive records. § 4-206(b)(1). The PIA explicitly requires that "staff and attorney review costs" be "prorated for each individual's salary and actual time attributable to the search for and preparation of a public record." § 4-206(b)(2). A custodian may not charge a fee for the first two hours of labor needed to "search for a public record and prepare it for inspection." § 4-206(c).

We have in the past cautioned that a custodian should not charge for duplicative review of records. *See, e.g.*, PIACB 21-13, at 4-5 (June 3, 2021) (finding that a custodian could not charge for general counsel's "second layer of review," conducted after associate general counsel's review of the records). However, the PIA clearly contemplates that attorney review may be separate from staff review, both of which must be prorated according to the individual's salary. § 4-206(b)(2); *see also* PIACB 22-09, at 6 (Mar. 21, 2022). But, we have also said that "custodians should seek attorney review of only those records that present a genuine legal question as to whether an exemption applies or a redaction should be made." PIACB 22-09, at 6 (Mar. 21, 2022). We see a red flag when a custodian seeks to charge, in an estimated fee, equal time for both staff and attorney review, *see* PIACB 21-15, at 5 (July 6, 2021), or when the estimated fee indicates that an attorney will prepare the entire response, with no sufficient explanation as to why lower-paid staff cannot perform at least some of the work, *see* PIACB 24-23, at 10-11 (Feb. 14, 2024).

Though the Town provided information about the basis for the \$920.30 estimated fee, we needed additional information to resolve this complaint. *See* § 4-1A-06(b)(2)(iii). Specifically, we asked the Town how many responsive records Town staff and the IT Director have located and retrieved. For email records, we asked whether duplicates had been removed and, if not, how the Town planned to identify and remove them. We also asked the Town to explain more about the search and retrieval process for any text messages located on Town officials' cell phones, including whether those phones are issued by the Town or are personal cell phones. We also asked the Town to specify how much time the Town Attorney expected to spend reviewing the records versus meeting with the Town officials. Finally, we asked the Town to provide the salaries of the Town staff assigned to locate and retrieve records.

In response to our questions, the Town states that the hourly rate of the staff person locating and retrieving records is \$36.26, calculated from an annual salary of \$75,420. The

Town states that this staff is “the only license inspector in the Town . . . and at the time she did not have any assistance for her position.” The Town also advises that the records the complainant requested are managed by this staff member, thus she was able to retrieve them most efficiently. The IT Director’s \$66.40 hourly rate was calculated from an annual salary of \$138,112. According to the Town, the IT Director is “the only person in the Town capable of performing the email search in the Town’s system and the only person in the Town with access to the Town’s email archive,” which is limited “for serious operational concerns and best practices.”

Based on these representations, we find the hourly rates for Town staff reasonable as the PIA defines the term, as they have been “prorated for each individual’s salary,” § 4-206(b)(2), without including costs such as benefits or overhead. Though we interpret § 4-103(b)’s instruction that the PIA’s provisions be construed in favor of inspection with “the least cost and least delay” to require that a custodian ordinarily assign the lowest-paid staff available and competent to prepare a PIA response, we have also recognized that at times it is more efficient (and thus ultimately less expensive) to use higher-paid staff—e.g., when higher paid staff is more familiar with the requested records and how they are stored and managed. *See, e.g.*, PIACB 25-83, at 6-7 (Sept. 18, 2025). It seems to be the case here that the staff tasked with responding to the complainant’s PIA request were both more familiar with the records and also the only staff available and capable of conducting the search. As to the attorney’s \$175 hourly rate, we are constrained to find that rate reasonable under the PIA as it appears to represent the actual cost to the Town for the attorney’s time. *See* PIACB 25-84, at 9 (Sept. 22, 2025). While there are legitimate reasons for concern about passing the cost of comparatively high legal fees onto PIA requesters, as smaller municipalities without in-house legal representation sometimes do, nothing in the PIA precludes the practice. *See* PIACB 24-23, at 9 (Feb. 14, 2024) (comparing § 4-206 to provisions in other states’ open records laws that limit fees in some way).

The remainder of the additional information provided by the Town bears on the reasonableness of the Town’s estimation that it will take a total of 8.5 hours between the Town staff and the Town’s attorney to prepare the response. As noted above, a custodian may only charge for the “actual time attributable to the search for and preparation of a public record.” § 4-206(b)(2). The Town advises that there are 121 email records, one text message thread (which includes the Town Attorney providing legal advice), and nine “other document types” that are responsive to the complainant’s PIA request. The Town states that it must manually review the email records to remove duplicates and anticipates that the attorney will spend 1.5 hours reviewing these emails for “responsiveness and redaction.” As for the process for searching the Town officials’ phones, the Town explains that the attorney met in-person with each official individually and typed in “key search terms into the search field in the text message function to see if each person had any of the requested records.” The Town states that fourteen phones were searched, as some officials have both a personal and Town-issued cell phone. On average, the Town states, “searching

the phones of each of the 9 officials took 20 minutes,” for a total of three hours of attorney time charged.

The Town represents that it actually took the license inspector two hours to search for and locate the non-email and non-text message records responsive to the complainant’s PIA request. That search apparently turned up nine records. While that may seem like little return for two hours of work, we also recognize that the complainant’s PIA request, even in narrowed form, asked for a broad array of records. We thus have no reason to doubt the Town’s representation and note that the Town ultimately did not charge for the inspector’s time, under § 4-206(c). The Town also represents that the IT Director took two hours to search for and locate 121 email records. This figure does not strike us as particularly excessive given that the complainant’s PIA request contained five parts, all with different timeframes and key terms. We therefore find the \$132.80 charged for the IT Director’s time reasonable under § 4-206 of the PIA.

Moving to the 4.5 hours that the Town has charged for the attorney’s time, we start with the 1.5 hours of anticipated review time for the 131 records that the searches located in total, which apparently includes identifying and removing duplicates from the email records. On its face, ninety minutes of review for 131 records does not seem excessive, at less than one minute per record. However, we do not think it reasonable to have an attorney paid \$175 per hour—nearly five times that of Town staff—conduct the entire review, including the removal of duplicate email records. *See* PIACB 24-23, at 10-11 (Feb. 14, 2024) (finding it unreasonable and inconsistent with § 4-103(b) to charge for an attorney to prepare nearly the entire response to a PIA request). Even if lower-paid Town staff takes a bit longer to review the records, the total cost is very likely to be less than the \$262.50 the Town seeks to charge for the attorney’s time. To the extent that the Town expects to find privileged information in the responsive records, staff may be instructed as to what material to flag for the attorney’s review—e.g., emails for which the Town’s attorney was the sender or recipient. Moreover, the licensing inspector is likely to have certain expertise regarding the records’ content, including what material may be exempt from inspection. We thus direct the Town to reduce the estimated fee for 1.5 hours of review time to \$54.39, to reflect the use of Town staff as the primary reviewer, rather than the Town’s attorney.

Finally, we address the three hours of attorney time the Town has charged to search for responsive text messages in the Town officials’ phones. This issue presents a somewhat more difficult question. The Town states that it chose to have the attorney review the officials’ phones for responsive records “because of the personal nature of such an intrusion,” and notes that not all Town officials have Town-issued cell phones. On the one hand, having an independent person perform this sort of search is arguably a better method for ensuring that all responsive records are located and collected—although we are unaware of any Maryland law on the PIA that would require it. *Cf.* PIACB 23-03, at 2 (Nov. 2, 2022) (involving a requester’s contention that a search of elected officials’ private email, text, and voicemail accounts should be searched by an independent IT company at

the requester's expense). And, certainly, having an attorney to advise officials as to their obligation to produce any public records that might exist on private devices is helpful to achieve compliance with the PIA.

But, as with the time for records review, we are not convinced that it was appropriate, under §§ 4-103(b) and 4-206 of the PIA, to have the attorney conduct—and the Town charge for the attorney's time regarding—this aspect of the Town's search for responsive records. It is not at all clear to us why a Town employee could not have performed this search, especially with regard to the Town-issued cell phones, which are presumably used only for Town business. To find the use of the attorney reasonable under these circumstances may lead to a scenario in which, every time public records in the form of text messages are requested from the Town, the requester must foot the \$175 hourly rate to search for those text messages. *Cf.* PIACB 24-23, at 11 (Feb. 14, 2024) (finding that a custodian's assertion that non-attorney employees were almost *per se* incapable of reviewing records for exempt material presented a "danger that other custodians may adopt this practice when they want to deny access to public records," (cleaned up)). In our view, such scenario is contrary to the purpose and intent of the PIA. We therefore find the \$525 that the Town charged for three hours of attorney time to search for responsive text messages unreasonable. Use of Town staff, with input or oversight from the IT Director as necessary, would be more appropriate and in line with the purpose of the PIA. We therefore direct the Town to reduce this aspect of the fee to \$108.78, by using the license inspector's \$36.26 hourly rate.

In sum, we find that the hourly rates used to calculate the \$920.30 estimated fee are reasonable under § 4-206(b)(2) of the PIA. We also find it reasonable that the license inspector and IT Director expended two hours each in the search for records, and that the Town may reasonably anticipate that it will take 1.5 hours to review the records found. However, we find the Town's use of its attorney, paid at an hourly rate of \$175, to conduct the entire review and perform the search for responsive text messages unreasonable, particularly in light of § 4-103(b)'s mandate that the PIA's provisions, including § 4-206, be construed in favor of inspection "with the least cost and least delay." The Town must use lower-paid employees to perform these tasks. Thus, we direct the Town to reduce the estimated fee to \$295.97. Should the actual costs exceed this amount—e.g., because the attorney spends time reviewing records flagged by Town staff for legal review—the Town may charge the overage.⁶ Conversely, should actual costs fall below this amount, the Town must issue the complainant a refund. § 4-1A-04(a)(3)(ii).

⁶ Based on the Town's responses to our request for additional information, we understand that the attorney has already expended three hours searching for the responsive text messages. While we are directing the Town to reduce the fee charged for that work by using the license inspector's hourly rate, we recognize that, in this respect, the "actual cost" will exceed the estimate, though the Town may not charge for it. Any differences between the estimated and actual fee will come down to the amount of time spent reviewing the records for responsiveness and redaction.

Conclusion

For the reasons discussed above, we find that the Town's \$920.30 estimated fee is unreasonable under the PIA. We therefore direct the Town to reduce the estimated fee to \$295.97.

Public Information Act Compliance Board

Sareesh Rawat, Chair
Samuel G. Encarnacion
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