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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-30
February 20, 2026
Maryland Department of Natural Resources, Custodian
Shaun Porter, Complainant

Complainant Shaun Porter alleges that the Maryland Department of Natural Resources (“DNR”) improperly denied a Public Information Act (“PIA”) request for certain records. In response to the complaint, counsel for DNR denies that DNR violated the PIA. After consideration of the submissions, we find no violation of the PIA and explain below.

Background

We take the following facts from the parties’ submissions. On July 31, 2024, the complainant sent the following PIA request to DNR:

I would like to inspect and/or receive a copy of the following records:

A) The highest resolution copy, (in digital format) of the Merlin Satellite Imagery depicted I Ex. 8-B1-Demonstrative DNR evidence, WITHOUT THE WHITE TEXT WRITTEN OVER TOP OF THE PUBLIC ROAD. Please reference December 17, 2023 MPIA request from Justin Holder for more information.

B) The communications related to Justin Holder’s MPIA request are the subject of Justin Holder’s December 4, 2023 MPIA request, and more specifically described in Ex. 9 – Update on PIA 120523.

Perhaps the DNR would waive fees on this request given the amount of public interest in this video.¹

[A]nd Shaun Porter is a new reporter who will be able to disseminate that information.

¹ We do not include the link to the video in our decision. We understand from DNR’s response to this complaint that the video link is no longer available.

DNR sent the complainant a letter dated August 16, 2024, in which it stated that it had no records responsive to part A of the PIA request. DNR advised the complainant that he could make a map of his own and provided a link to Maryland's Environmental Resource and Land Information Network, or "MERLIN." As to part B of the complainant's PIA request, DNR noted that the complainant had not attached "Ex. 9 – Update on PIA 120523," as he had indicated. However, DNR provided certain responsive records, including Mr. Holder's PIA request, DNR's ten-day letter,² and correspondence related to a fee. DNR also advised that the PIA request the complainant identified (Mr. Holder's) was "the subject of a pending proceeding before the MPIA Compliance Board." DNR explained that "[r]ecords relating to the Board proceedings and mediation that preceded the Board proceedings are being withheld pursuant to GP § 4-1A-06(b)(5) and § 4-1B-04(d)," and that other records were withheld under § 4-301(a)(1)³ as protected by the attorney-client privilege.

More than a year later, on September 13, 2025, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance.⁴ On October 15, 2025, the Ombudsman issued a final determination stating that the dispute—described as "the partial denial of the request"—was not resolved, and the complainant filed this complaint with our Board. In his complaint, the complainant contends that "DNR denied [his] request unlawfully because the records at issue were never submitted to the Ombudsman during mediation, or to this board for in camera inspection."

In response to the complaint, counsel for DNR explains that DNR interpreted part A of the complainant's PIA request as asking for "map imagery from 'Maryland's Environmental Resources and Land Information Network,' or MERLIN map database." Counsel notes that this "publicly available online mapping database" allows users to create custom maps of any location in Maryland. Later, counsel stresses that the complainant does not appear to challenge DNR's response to this part of his PIA request, i.e., that it had no such map.

² See Md. Code Ann., Gen. Provisions § 4-203(b)(2), which requires a custodian to provide certain information in writing to a requester when the custodian reasonably believes that it will take longer than ten working days to produce records.

³ Statutory citations are to the General Provisions Article of Maryland's Annotated Code unless otherwise stated.

⁴ The PIA requires 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 stating that the dispute was not resolved. § 4-1A-05(a).

As to part B of the PIA request, counsel for DNR states that DNR interpreted that part as asking for “the same records requested by Justin Holder on December 4, 2023,” i.e., “records of DNR attorney communications relating to litigation and MPIA disputes [Mr. Holder] had with DNR and others, as well as records [Mr. Holder] had previously requested and was told DNR did not have.” Counsel attaches a copy of Mr. Holder’s PIA request to DNR with DNR’s response to this complaint and notes that, when the complainant sent his PIA request in July 2024, Mr. Holder’s PIA request was the subject of a pending complaint before our Board, PIACB 24-114. According to counsel for DNR, Mr. Holder had also sent the same December 2023 PIA request to the Maryland Office of the Attorney General (“OAG”), which produced some non-privileged records from Assistant Attorneys General assigned to DNR. Counsel states that DNR responded to Mr. Holder’s PIA request on September 12, 2025,⁵ and copied the complainant here on that response. In addition to producing some of the same records that the OAG did in February 2024, counsel advises that DNR also produced “a few others that were in DNR’s custody and not duplicative of what OAG produced.” Counsel for DNR attaches DNR’s September 12, 2025, letter to Mr. Holder, which indicates, “CC: Shaun Porter.”

Counsel for DNR argues that its September 12, 2025, response to Mr. Holder’s PIA request, on which the complainant was copied, “effectively renders [the complainant’s] complaint about DNR’s August 16, 2024 response moot.” Counsel also contends that the complainant “does not explain with any specificity why or how DNR’s August 16, 2024 response wrongfully withheld records.” Counsel continues to rely on the provisions of the PIA cited in DNR’s August 2024 response as reasons why DNR properly denied inspection of records responsive to part B of the request (which were the same records responsive to Mr. Holder’s December 2023 PIA request) at that time. Counsel also observes that the complainant has not challenged the OAG’s February 2024 response to Mr. Holder’s PIA request, or DNR’s September 2025 response to same. Finally, counsel for DNR notes that the complainant’s PIA request “was submitted during the pendency of proceedings before this Board in PIACB 24-114,” and was thus “an obvious attempt at circumventing DNR’s legitimate deferral of its response to Mr. Holder’s request pending the outcome of PIACB 24-114.” Counsel argues that requiring disclosure to the complainant, in August of 2024, of the very same records requested in Mr. Holder’s PIA requests under consideration in

⁵ DNR took the position that it was not required to respond to Mr. Holder’s PIA requests that were the subject of PIACB 24-114 while that complaint was pending before us and, later before the circuit court on appeal. DNR filed its complaint under § 4-1A-04(b), which permits custodians to file complaints that a PIA request or pattern of requests is “frivolous, vexatious, or in bad faith.” A majority of our Board ultimately found that DNR did not meet its burden to show that Mr. Holder’s PIA requests were frivolous, vexatious, or in bad faith, although two Board members disagreed, finding that the requests were vexatious. *See* PIACB 24-114 (Oct. 25, 2024). DNR appealed our decision, but withdrew that appeal in September 2025. *See In the Matter of Maryland Dep’t Nat. Res.*, Case No. C-21-CV-24-000486 (Cir. Ct. Wash. County).

PIACB 24-114 would “seriously undermine the powers and duties of this Board by effectively mooting the underlying dispute.”⁶

The complainant, in reply, states that he is “complaining about the DNR denial, and failure to produce the records in accordance of the law,” and asserts that Mr. Holder’s PIA requests “are not relevant to this complaint.” The complainant argues that DNR’s denial was improper because none of the records he requested “were ever submitted to the Ombudsman or this board, and therefore no factual or legal basis existed for the custodian to deny inspection thereof.” The complainant suggests that, were an agency “allowed to deny one requestor records, (in this case a news agency looking to report on a heated MPIA battle potentially), just because the MPIA requestor subject of the news story has also asked for those records, it would turn the MPIA on its head.” The complainant claims that he requested the records “to determine whether or not Mr. Holder’s request for documents was truly vexatious,” and that “as a member of the press, this was [his] very first MPIA request to DNR.”⁷

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 public records. § 4-1A-04(a)(1)(i). If, after review of the submissions, we determine that a custodian denied inspection of a public record in violation of the PIA, we must issue a written decision and “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(2) and (3)(i).

Under § 4-201(a) of the PIA, a custodian must allow inspection of public records, unless the records are exempt from disclosure by law. The PIA contains both mandatory

⁶ We note that counsel for DNR includes, in both the response to the complaint itself and exhibits attached to the response, confidential mediation communications, specifically emails exchanged with the Ombudsman. We have not reviewed or considered these communications. *See* Md. Code Ann., Cts. & Jud. Proc. § 3-1803(b)(1) (prohibiting a party to a mediation from disclosing mediation communications in “any judicial, administrative, or other proceeding”); *id.* § 3-1801(c) (mediation communications include communications “made for the purpose of considering [or] initiating . . . a mediation”).

⁷ After confirming receipt of the complainant’s reply, we received an email from counsel for DNR requesting that an email sent by the complainant directly to counsel be included in the record. That email took issue with a footnote in DNR’s response, in which counsel noted that the complainant is currently pending criminal charges for electronic mail harassment. We note that our Board’s process is intended to be a fair process for resolving PIA disputes. After reviewing the email sent to counsel for DNR, as well as a subsequent email sent to our Board and counsel, we admonish the complainant for engaging in conduct that is uncivil and antithetical to the process.

and discretionary exemptions. When an exemption is mandatory, a custodian typically must deny inspection of the relevant records or information.⁸ *See, e.g.*, § 4-311 (mandatory exemption for individuals' personnel records); § 4-336 (mandatory exemption for individuals' financial information). When an exemption is discretionary, a custodian may deny inspection of records or information only if the custodian believes that inspection would be "contrary to the public interest." § 4-343; *see, e.g.*, § 4-351 (discretionary exemption for certain law enforcement records). Regardless of the type of exemption at issue, a custodian bears the burden of demonstrating that the exemption was properly applied. *Lamson v. Montgomery County*, 460 Md. 349, 367 (2018).

We start by framing the challenge before us. The complainant's PIA request had two distinct parts, and DNR's response was likewise distinct in two ways. Part A of the complainant's PIA request asked for a specific map. DNR responded that it did not have that map, but told the complainant where he could create one himself. Part B of the complainant's PIA request asked for: "The communications related to Justin Holder's MPIA request are the subject of Justin Holder's December 4, 2023 MPIA request, and more specifically described in Ex. 9 – Update on PIA 120523." Mr. Holder's December 4, 2023, PIA request asked for, among others, communications "regarding/discussing/relating to Justin Holder's MPIA requests, and/or criminal charges being prosecuted/investigated/dismissed against Justin Holder." In response to that part of the complainant's request, DNR produced Mr. Holder's December 4, 2023, PIA request, and certain communications DNR sent to Mr. Holder about that PIA request. DNR denied inspection of the actual records responsive to Mr. Holder's December 4, 2023, PIA request—e.g., the "communications" about Mr. Holder's PIA requests and criminal charges. DNR cited §§ 4-1A-06(b)(5) and 4-1B-04(d) of the PIA, noting that Mr. Holder's December 4, 2023, PIA request was under consideration in a complaint before our Board.

In his complaint, the complainant alleges that DNR's denial was unlawful "because the records at issue were never submitted to the Ombudsman during mediation, or to this board for in camera inspection." Thus, the complainant appears to challenge only DNR's response to part B of his PIA request, as those were the records for which inspection was denied under provisions in Subtitles 1A and 1B of the PIA—the subtitles that govern our Board and the Public Access Ombudsman, respectively. The complaint does not refer to part A of the complainant's request or to DNR's response that the record does not exist, nor does it mention the map the complainant asked for. In addition, the complaint does not allege that DNR's search for the map was unreasonable or insufficient, or that the map in

⁸ Some mandatory exemptions contain exceptions that either require or allow a custodian to disclose otherwise-exempt records under certain circumstances, e.g., when the requester is the person in interest. *See, e.g.*, § 4-311(b)(1) (custodian must disclose personnel records to the person in interest); § 4-336(c) (same for financial information). A "person in interest" is most often the person "that is the subject of a public record." § 4-101(g)(1).

fact exists in DNR's custody. We will therefore focus our review on DNR's response to part B of the complainant's PIA request.

To a certain extent, this complaint is arguably moot. The complainant contacted the Ombudsman on September 13, 2025. However, the day before, DNR had issued a response to Mr. Holder's December 4, 2023, PIA request, producing records and copying the complainant on that response. Thus, the complainant apparently has the records he asked for. We note that we received this complaint on November 1, 2025, six weeks after DNR provided the records. The complainant does not appear to challenge that specific response, as he provides only DNR's August 16, 2024, response letter with his complaint. However, given the unique facts and circumstances surrounding this complaint, we will review DNR's August 2024 denial of inspection.

In its letter of August 16, 2024, DNR denied inspection under §§ 4-1A-06(b)(5) and 4-1B-04(d). DNR explained that Mr. Holder's December 4, 2023, PIA request was "the subject of a pending proceeding before the MPIA Compliance Board," and therefore "[r]ecords relating to the Board proceedings and mediation that preceded the Board proceedings" were withheld. Section 4-1A-06(b)(5) requires our Board to "maintain the confidentiality of any record or information submitted by a custodian or an applicant under this subsection." That provision applies when our Board asks a custodian to provide, e.g., copies of the records in dispute for our confidential review as we work to resolve a complaint. See § 4-1A-06(b)(2)(ii); see, e.g., PIACB 26-15, at 5-6 (Dec. 23, 2025); PIACB 26-16, at 6 (Dec. 5, 2025). Thus, § 4-1A-06(b)(5) is not so much a standalone exemption as it is a confidentiality mandate upon our Board. Even assuming the provision may have broader application under some circumstances however, we did not ask DNR to provide any disputed records for our confidential review in PIACB 24-114. Section 4-1B-04(d) is a similar confidentiality mandate, but as to the Ombudsman. That provision generally prohibits the *Ombudsman* from disclosing "information received from an applicant or custodian without written consent from the applicant and custodian."⁹ § 4-1B-04(d)(1). Understood this way, it is clear that the provisions of the PIA DNR cited in its August 16, 2024, response to the complainant's PIA request do not, in and of themselves, operate to exempt the responsive records from disclosure.

That said, there is a certain logic to DNR's argument here. The Legislature enacted § 4-1A-04(b) to provide "assistance to over-burdened custodians." *Hearing on H.B. 183 Before the House Health & Gov't Operations Comm.*, 2021 Leg., Reg. Sess. (Feb. 11, 2021) (written testimony of Del. Brooke Lierman). When the complainant sent his PIA request, in August 2024, we were considering a complaint from DNR that alleged that Mr. Holder's December 4, 2023, PIA request (and others) was frivolous, vexatious, and in bad

⁹ There are exceptions to this general rule. For instance, the Ombudsman may disclose such information to counsel for the Ombudsman, and may "transfer basic information about a dispute . . . to the Board." § 4-1B-04(d)(2) and (3).

faith.¹⁰ See PIACB 24-114, at 9-10 (Oct. 25, 2024) (identifying the PIA requests at issue in the complaint). The language of § 4-1A-04(b) focuses on the PIA requests themselves, as opposed to the requester, directing us to review complaints that a “request or pattern of requests is frivolous, vexatious, or in bad faith.” Compare Conn. Gen. Stat. Ann. § 1-206(b)(6) (allowing that “a public agency may petition the commission for relief from a *requester* that that the public agency alleges is a vexatious *requester*,” (emphasis added)). When a custodian has legitimately alleged that a certain specific PIA request is frivolous, vexatious, or in bad faith, and has asked our Board to provide relief from having to respond to the request, it would make little sense for the PIA to nevertheless require the custodian to produce records in response to what is essentially *the same PIA request under review*, but submitted by a different requester. See *Lockshin v. Semsker*, 412 Md. 257, 276 (2010) (statutes must be “given a reasonable interpretation, not one that is absurd, illogical, or incompatible with common sense”). In addition, we note that § 4-203(d)(2) extends the time for responding to PIA requests when the requester or custodian seeks dispute resolution through the Ombudsman or our Board. Thus, arguably, DNR could have properly cited that provision as a reason for waiting, as DNR did, until the dispute over Mr. Holder’s December 4, 2023, PIA request was resolved to respond to the complainant’s PIA request and produce records.

The complainant protests that he is a separate person from Mr. Holder and that Mr. Holder’s PIA requests are irrelevant to our resolution of this complaint. But that is not entirely true. The complainant made Mr. Holder’s December 4, 2023, PIA request relevant by identifying it in his PIA request and asking for the same records of communications Mr. Holder asked for.¹¹ As noted above, the complainant states he asked for the records “to determine whether or not Mr. Holder’s request for documents was truly vexatious.” But that is precisely what our Board was doing, as authorized by the PIA, when the complainant made his PIA request. And DNR’s complaint was not itself frivolous. Indeed, the majority of our Board who found that DNR had not met its burden described the outcome as a “close call on the facts.” PIACB 24-114, at 17 n.24 (Oct. 25, 2024). Based on the submissions, we cannot find DNR in violation of the PIA here. We do, however, caution that our determination is limited to the unique facts and circumstances presented by this complaint, which include the fact that DNR has responded and produced records.

Conclusion

For the reasons discussed above, we find no violation of the PIA.

¹⁰ DNR received Mr. Holder’s December 4, 2023, PIA request on December 5, 2023, and it is thus identified by that later date in our decision. It is clear from the text of the PIA requests, however, that they are the same. See PIACB 24-114, at 5 n.7 (Oct. 25, 2024).

¹¹ We also note that Mr. Holder and the complainant are not strangers. Mr. Holder has referred to the complainant as his “proxy speaker” in the past. See PIACB 26-13, at 1 (Nov. 25, 2025).

Public Information Act Compliance Board

Sareesh Rawat, Chair
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