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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 26-61

June 3, 2026

Montgomery County Alcohol Beverage Services, Custodian
Arash Tafakor, Complainant

This complaint arises in connection with complainant Arash Tafakor's Public Information Act ("PIA") request to Montgomery County Alcohol Beverage Services ("MCABS"). The complainant sought correspondence and notes related to pricing for kegged wines for a specific restaurant. MCABS produced responsive records, but the complainant alleges that MCABS has constructively denied his PIA request by failing to locate all responsive records. In response to the complaint, MCABS, through counsel, maintains that it performed a reasonable and sufficient search and has not denied inspection of any responsive records. As explained below, we find that MCABS performed an insufficient and unreasonable search for responsive records.

Background

The following facts are supplied by the parties' submissions, including email correspondence between the parties. In August of last year, the complainant sent a PIA request to MCABS asking for:

1. Any Alcohol Beverage Services (ABS) email correspondence and in-person meeting notes with any representative of the restaurant Sixty Vines, specifically regarding the markup, cost, and price charged to Sixty Vines for kegged wines.
2. Documentation showing the markup on kegged wines prior to May 1, 2025, as well as the current markup on kegged wines.
3. Any internal ABS correspondence regarding the markup, cost, and price charged to Sixty Vines for kegged wines.

On September 22, 2025, MCABS responded to the PIA request and provided information about "Keg Wine mark-ups," along with "notes from Pricing Manager" explaining the markups. MCABS advised the complainant that "[t]here have been no in-person meetings between Sixty Vines and the Pricing Team," and that there was "no email correspondence between the Pricing Team and Sixty Vines." In addition, MCABS advised that there were

“no internal emails regarding Sixty Vines pricing from the Pricing Team,” but that the Pricing Manager had been on “at least one Teams meeting with Sixty Vines.” MCABS stated that the “18% category mark-up was already known by Sixty Vines during these meetings.” MCBAS further stated that it was still searching for records and information regarding certain aspects of the PIA request.

The complainant responded to MCABS the same day, contending that MCABS’s response was “incomplete.” The complainant asked for a transcript of the Teams meeting, a list of attendees of the Teams meeting, and “[a]ny emails leading up to the meeting.” On September 25, 2025, MCABS sent the complainant another email and attached a “pre-May mark-up list for wine kegs,” which listed “the keg wine pricing in March of 2025.” MCABS also provided information about the “mark-up decrease,” including quotations from the Pricing Manager and Buying Manager on the issue. According to the Pricing Manager, there had been four Teams meetings with Sixty Vines, but there were “no notes or transcripts of these meetings” in the Pricing Manager’s files and, to the best of his recollection, the meetings were “focused on items the restaurant group wanted to have available via the ABS.” MCABS also provided the complainant with four responsive emails, which were located by the Pricing Manager.

The complainant continued to feel that MCABS’s response to his PIA request was incomplete, thus he sent an email emphasizing that his request sought “any ABS employee correspondence, not only the Pricing or Buying Departments.” The complainant asked whether the County Department of Technology Services (“DTS”) conducted a “comprehensive search” and, if not, asked that MCABS “have DTS execute the search immediately.” The complainant also again asked, regarding the four Teams meetings, that MCABS produce the transcripts or notes from the meetings, the lists of attendees, and emails leading up to the meetings. The complainant also asked MCABS to provide copies of the four responsive emails “in full, rather than a summary.” On October 3, 2025, presumably after having not heard further from MCABS, the complainant sent another email insisting that MCABS “immediately comply with the statutory requirements.”

MCABS responded to the complainant at length, providing clarifying information as to how it searched for records. MCABS explained that it has “no reason to have any communication ‘specifically regarding the markup, cost, and price charged to Sixty Vines for keged wines’ with [Sixty Vines] reps.” That was so, MCABS stated, because “[w]ine keg pricing is between the supplier and ABS,” and MCABS “sourc[ed] the keg wines from suppliers, mark-up all 18%, and make them available to all licensees to order.” MCABS stressed that Sixty Vines received “keg wine pricing the same way all licensees receive it.” Thus, MCABS believed that “only the members of the buying and purchasing groups could possibly have any contact with [Sixty Vines] regarding keg wine pricing,” thus MCABS “in good faith . . . focused on these groups.”

As to the complainant's request for information about the Teams meetings, MCABS advised that the meetings were "set-up by the buying group," and that "only supplier registration, product sourcing and delivery timetables were discussed." MCABS provided the complainant a list of the meeting attendees, but stated that "[r]ecordings/transcripts of these meetings in Teams are not allowed," and that "[n]either buying nor pricing group attendees have notes of these meetings." Regarding the complainant's request for email records, MCABS maintained that its search was reasonable, but advised that it would work with the County Attorney's Office and DTS to further fulfill that portion of the complainant's PIA request.

On October 6, 2025, the complainant sent MCABS an email conveying his position that "when email correspondence is requested, the Department of Technology Services (DTS) must conduct a comprehensive search across the county's email servers." In the complainant's view, "[s]imply asking individual employees to look through their inboxes in not a proper or complete search under the [PIA]." The complainant asked MCABS to "[p]lease ensure that DTS is engaged to perform the full search for all emails responsive to [his] request." MCABS replied and asked the complainant to answer clarifying questions so it would "know what requirements to give [Technology and Enterprise Business Solutions, or "TEBS"] for the email search." The complainant, in response, directed MCABS to "combine #3 and #11 to make it crystal clear for you."¹ The complainant also instructed that search encompass "all [MCABS] employee email accounts, including deleted and archived messages be searched," and that the search include "emails that may not explicitly use the name 'Sixty Vines' but instead refer to the restaurant indirectly—such as 'the new wine-on-tap restaurant,' 'the Dallas-based group,' or similar language."

On October 6, 2025, MCABS sent the complainant an email advising that it had conferred with the County Attorney's Office, and that that office had "sent the request requirements to TEBS." MCABS stated that it would get the results soon, and would contact the complainant when it did. On November 11, 2025, the complainant contacted MCABS asking for an "immediate update on the status and when [he could] expect the results from TEBS." MCABS responded that it had "missed the email" from the County Attorney's Office earlier. MCABS stated that it told that office to proceed and advised the complainant that the County Attorney's Office would "get back to [him] soon."

On November 13, 2025, counsel for MCABS sent the complainant an email stating that the TEBS search "returned 19,348 pages," which counsel estimated "would take 387 hours to review." Counsel suggested that, "[g]iven the time and expense involved in

¹ Number "3" was the request for "[a]ny internal ABS correspondence regarding the markup, cost, and price charged to Sixty Vines for kegged wines," and "#11" the request for "[i]nternal ABS correspondence regarding keg wine markups." In later correspondence, MCABS advised the complainant that it would "go with item #3 as it is more specific than #11 by specifying Sixty Vines."

responding to [the] request in its present form,” counsel would be “happy to discuss various options for narrowing [the] request to a more affordable, and manageable size.” The complainant responded by asking counsel to “please provide the estimated cost for fulfilling the request as it currently stands.” At the same time, the complainant indicated that he was “open to discussing ways to reasonably narrow the search parameters,” although the complainant found it “difficult to understand how correspondence related to Sixty Vines and its keg wine pricing could result in nearly twenty thousand pages of responsive records.” Counsel for MCABS responded that the complainant’s request was “significantly broader” than characterized, and advised that MCABS estimated that it could review fifty pages per hour, thus resulting in 387 hours of review time. After receiving that email, the complainant again asked MCABS to “please give [him] a cost as it stands.” Counsel declined, stating that “this is an unreasonable and unduly burdensome amount of staff time.”

On November 22, 2025, the complainant sent counsel for MCABS an email and asked when he could “speak directly with DTS regarding narrowing the search.” The complainant stated, “[t]here is simply no scenario where [his] search terms should have produced over 19,000 emails.” The complainant also challenged MCABS’s refusal to give him a price quote, stating that the price determination “should come from DTS after their search methodology is properly explained.” The next day, counsel responded and, referring to a conversation he had with the complainant a few days earlier, stated that there was “an apparent disconnect between the text of [the complainant’s] request and how [he had] been describing it.” Counsel for MCABS reiterated that the requested search was “extremely broad,” and advised that, if the complainant “could just plainly state what it is [he was] looking for,” MCABS “would be in a position to review and respond.”

On November 25, 2025, the complainant sent MCABS a narrowed version of his PIA request that still “target[ed] the core issue—whether ABS staff discussed Sixty Vines and how ABS arrived at the decision to adjust kegged-wine markup.” The complainant provided a date range of July 1, 2023, to November 25, 2025, and limited the search to the email accounts of three specific MCABS employees, all in the pricing and buying departments, and “[a]ny ABS employee who met with or communicated with representatives of Sixty Vines regarding kegged wines.” The complainant also supplied seven key words or terms. In addition, the complainant again expressed his belief that “19,348 pages is ridiculously large for one restaurant and a niche pricing change,” and asked MCABS to provide “[t]he actual number of individual emails (not ‘pages’) retrieved,” the “breakdown by custodian,” and “[c]onfirmation of the search parameters originally used by DTS.” Counsel for MCABS responded by asking if he was correct that the complainant was “seeking internal conversations between ABS staff regarding the decision to adjust kegged-wine markup?” The complainant replied, “[y]es.”

In early December, the complainant contacted counsel for MCABS twice to ask for an update. Counsel for MCABS responded that “[a]s far as [he] could see in the file,” the

complainant had “requested and [was] provided information about the markup on kegged wine.” Counsel took the position that MCABS had “conducted a reasonable search and responded to [the complainant’s] questions.” Counsel stated that “[a]ny additional response of internal conversations of ABS discussing the business decision of setting a kegged-wine markup is protected by executive privilege.” Counsel for MCABS provided the complainant with information about remedies for disagreement under the PIA. The complainant responded that MCABS’s position was “inconsistent” with that taken in prior PIA requests, and attached copies of email records he received after DTS searched employee email accounts.²

On December 11, 2025, the complainant contacted the Public Access Ombudsman to request dispute resolution assistance regarding his PIA request to MCABS.³ The complainant continued to believe that MCABS’s response to the request was incomplete. On February 11, 2026, the Ombudsman issued a final determination stating that the dispute was not resolved and the complainant filed this complaint with our Board.

The complaint alleges that MCABS has constructively denied the complainant’s PIA request “though delay, cost inflation, unsupported privilege claims, and a pattern of obstruction.” The complainant maintains that his PIA request was “neither expansive nor vague,” as it was “confined to one restaurant group, one product category, and one discrete pricing subject.” The complainant insists that DTS “has the capability to perform targeted keyword searches using standard e-discovery protocols,” and that “[f]iltering by defined custodians, date ranges, and key words . . . would drastically reduce any claimed volume. Stressing that MCABS has “provided no affidavit, no methodology, and no explanation supporting the 19,000-page figure,” the complainant suggests that the estimate “appears designed to deter inspection rather than facilitate compliance.” The complaint also alleges that MCABS has “categorically asserted executive privilege over internal discussions,” and argues that “[o]perational pricing decisions by a government monopoly wholesaler are not high-level executive deliberations implicating sensitive policy formulation.”

MCABS, through counsel, responds and defends MCABS’s response, asserting that MCABS “conducted a reasonable search and provided all of the documents which were identified.” Counsel states that MCABS did not withhold any responsive records. Counsel explains that MCABS “worked with the [complainant] on the scope of the potential email search,” as “[o]ne iteration of his request was phrased extremely broadly and would have

² The complainant attaches these email records—502 pages of them—with his reply, discussed more below.

³ The Public Access Ombudsman is charged under the PIA with making “reasonable attempts to resolve disputes between applicants and custodians relating to requests for public records.” Md. Code Ann., Gen. Provisions § 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. *Id.* § 4-1A-05(a).

returned an unmanageable number of documents.” After the complainant “confirmed that the scope of the documents he was looking for was ‘whether ABS staff discussed Sixty Vines and how ABS arrived at the decision to adjust kegged-wine markup,’ MCABS apparently determined that it “original document production represented the documents responsive to that request.”

Counsel also calls the complainant’s arguments about the assertion of the executive privilege “unavailing,” stating that “[n]o documents are being withheld based on executive privilege.” Counsel for MCABS explains that the “final response referenced executive privilege only insofar as, if additional documents existed which had not been located, they may be subject to executive privilege.” According to counsel, the reference was “in the context of the reasonableness of declining to allow [the complainant] to dictate the manner of the search.” Thus, counsel contends, even if our Board disagreed that such records would be protected by the privilege, “there are no such documents which have been identified and withheld.”

Counsel for MCABS reiterates that MCABS “conducted a reasonable search reasonably calculated to uncover responsive records, and provided 100% of the records which were located, including four emails, as well as drafting responses to [the complainant’s] substantive questions.” As example, counsel points out that the complainant asked about pricing and states that the question “was sent to the pricing team,” which was “in the best position to respond to that type of inquiry.” Counsel maintains that the complainant’s claim that asking individual employees to look through their inboxes is improper, and that TEBS⁴ must conduct a comprehensive search, is unsupported. Counsel contends that “[t]here is no legal or factual support that ABS reviewing the emails of employees tasked with the topic area does not constitute ‘a reasonable search designed to locate all records responsive to the particular PIA request, not a perfect search that leaves no stone unturned.’”

Calling MCABS’s positions “not internally consistent,” the complainant, in reply, suggests that, “[i]f no additional responsive internal discussions exist, privilege should be irrelevant.” But, the complainant argues, if there are additional records, MCABS “should not be allowed to avoid disclosure simply by vaguely invoking privilege without first conducting and describing an adequate search and identifying what is being withheld.” The complainant maintains that MCABS has not demonstrated that it performed a reasonable search, and that its description of the search “remains far too vague.” For instance, the complainant notes, MCABS has not “clearly identified the custodians searched, the date ranges used, the search terms applied, whether attachments were reviewed, whether shared mailboxes were searched.” The complainant also notes that

⁴ We understand from counsel for MCABS’s response that DTS is now known as Technology and Enterprise Business Solutions, or “TEBS.” We will use this acronym throughout the remainder of this decision.

MCABS has not stated “whether anyone outside the pricing team participated in the decision-making process.” The complainant contests MCABS’s “claim that only a very small number of emails were found on a subject this significant.”

The complainant continues to press his position that his narrowed search parameters should be run through TEBS, which the complainant considers a “neutral and credible search method.” The complainant argues that, if MCABS believes that records of internal deliberations exist but are exempt, then “TEBS should still locate those records so ABS can identify them and assert any claimed exemption with specificity.” The complainant contends that “[e]ither no additional responsive records exist, or additional responsive records do exist and ABS must account for them.” MCABS should not, the complainant urges, “be allowed to avoid both disclosure and accountability by refusing to say which is true.”

Analysis

We are authorized to review and resolve complaints alleging certain violations of the PIA, including that a custodian improperly denied inspection of a public record. § 4-1A-04(a)(1)(i).⁵ We have interpreted this authority broadly to include review of an allegation that a custodian has constructively denied a PIA request, e.g., by performing an inadequate search that failed to locate all responsive records. *See* PIACB 23-05, at 3-5 (Nov. 23, 2022); *see, e.g.*, PIACB 26-51 (Mar. 27, 2026). If we determine that the custodian violated the PIA as alleged, we must issue a written decision and order a remedy as provided in the PIA. *See* § 4-1A-04(a)(2) and (3). When we find that a custodian has improperly denied inspection of a public record, we must “order the custodian to . . . produce the public record for inspection.” § 4-1A-04(a)(3)(i). Where an unreasonable and insufficient search led to a constructive denial, we may direct the custodian to conduct a remedial search and “produce any non-exempt responsive records to the complainant.” PIACB 24-08, at 6 (Sept. 28, 2023).

Ordinarily, the PIA must be interpreted in favor of disclosure of public records. § 4-103(b); *see also, e.g., Ireland v. Shearin*, 417 Md. 401, 408 (2010) (“[T]he statute should be construed in favor of disclosure for the benefit of the requesting party.”). Thus, when a custodian receives a PIA request, the custodian must “conduct a search in good faith that is reasonably designed to capture all responsive records.” *Glass v Anne Arundel County*, 453 Md. 201, 232 (2017). The search should employ “methods that can be reasonably expected to produce the information requested” and “be focused on where responsive records are likely to be found.” *Id.* (citation omitted); *see, e.g.*, PIACB 26-43, at 8-9 (Apr. 21, 2026) (finding a search reasonable where a custodian asked certain employees to search for records and also had information technology perform a search). Our State’s Supreme

⁵ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code, unless otherwise stated.

Court has said, “[i]n the end, what the PIA requires is a *reasonable* search designed to locate all records responsive to the particular PIA request, not a perfect search that leaves no stone unturned.” *Id.* at 233 (emphasis original). Although “[a] search may be reasonable and adequate without being perfect,” *id.* at 232, a custodian still must ensure that it is “reasonably calculated to uncover responsive records,” *id.* at 212.

Turning to the complaint here, we needed additional information from MCABS about its search for records to resolve this complaint. So, we asked MCABS to provide an affidavit from a person with knowledge that described the search MCABS performed, including the search terms used to locate electronic records. *See* § 4-1A-06(b)(4) (allowing our Board to request “an affidavit or a statement containing the facts that are at issue in the complaint”).

In response, MCABS provided an affidavit from John Utermohle, the Chief of Administrative Services for MCABS. (“Utermohle Affidavit”). According to the affidavit, Mr. Utermohle’s duties “include generally overseeing the ABS Pricing and Purchasing teams.” Mr. Utermohle avers that, on or around September 23, 2025, he asked the supervisor of Pricing and the supervisor of Wholesale Purchasing to “check their Outlook emails and Teams chats for any reference to Sixty Vines ‘markup, cost and price charged’, and have their direct reports do the same.” The Utermohle Affidavit states that “[t]here are no other employees who would reasonably be involved in discussions of the markup or costs charged to Sixty Vines for kegged wines.” The supervisor of Pricing advised that he had “gone through his emails, Teams meetings and the new item pricing emails, and that he searched Sixty Vines, [Sixty Vines’s owners name], keg wine and pulled out anything related to pricing.” Mr. Utermohle states that the supervisor “provided four emails,” which MCABS sent to the complainant. In addition, the Utermohle Affidavit states that MCABS “did not find any responsive documents that [it] did not provide” and that MCABS is not withholding records under the executive privilege.

Based on this record, including the Utermohle Affidavit, we cannot find MCABS’s search for responsive records reasonable under the PIA. In the language of *Glass*, the search was not, in our view, “reasonably designed to capture all responsive records.” 453 Md. at 232. While it may have been reasonable to begin by asking certain employees likely to have responsive records to search their own email accounts and Teams chats, we think it was insufficient for MCABS to rely totally on the results of those searches. We have suggested that, under certain circumstances, such a search might be reasonable. *See* PIACB 26-51, at 6 (Mar. 27, 2026). But we have also seen, numerous times, such a search alone prove inadequate, especially when a custodian has the resources to perform a broader search with the assistance of information technology staff. *See, e.g., id.* at 5 (subsequent search of email accounts by the Department of Information Technology yielded additional emails not previously reviewed or produced); PIACB 26-43, at 8-9 (Apr. 21, 2026) (after initial request that certain employees conduct searches of their own accounts returned no

responsive records, a search conducted by information technology resulted in 656 pages of responsive records).

Here, it seems that the complainant and MCABS were in the process of working to narrow the search parameters, but that MCABS ultimately abandoned that effort, asserting that its initial search was adequate. We think that, in doing so, MCABS may have failed to locate responsive records. *See Glass*, 453 Md. at 233 (encouraging requesters and custodians to engage in an “iterative process” to help reduce the burden on an agency while producing the records sought). It is perhaps telling that one method (asking employees to search their own accounts) yielded four email records while the initial search using the other method (searching with the assistance of TEBS) resulted in more than 19,000 potentially responsive records. While it is unlikely that the number of truly responsive records is even close to that high end, such results may suggest that there are more than four responsive records. We also note that TEBS’s first search was apparently conducted with an unbounded timeframe, while the narrowed parameters limited the time to July 1, 2023 through November 25, 2025. That change alone should substantially reduce the number of responsive records.

In light of our determination, we direct MCABS to perform another search with the assistance of TEBS, using—to start, at least—the refined search parameters provided by the complainant in his email of November 25, 2025. MCABS should advise the complainant as to how many potentially responsive records the search returns. Should this search return an unmanageably high volume of records, MCABS should work with the complainant to further refine the search parameters.

Because the Utermohle Affidavit states that MCABS did not deny inspection of any records it found, under the executive privilege or otherwise, we do not review or resolve the complainant’s allegations about the application of that privilege. However, for guidance as to the executive privilege and the PIA, we refer MCABS to *Stromberg Metal Works, Inc. v. Univ. of Maryland*, 382 Md. 151 (2004), and our recent decision, PIACB 26-21 (Feb. 3, 2026).

Conclusion

For the reasons discussed above, we find that MCABS conducted an insufficient and unreasonable search for records responsive to the complainant’s PIA request and, as a result, may have constructively denied inspection of responsive public records. We therefore direct MCABS to perform a remedial search, as described above, and to produce any non-exempt responsive records to the complainant within thirty days of receipt of this decision and order.

Public Information Act Compliance Board

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