# *SAMPLE DENIAL LETTER*

May 1, 2020

Connie Have, Esquire
1000 Lawyer Building
Baltimore, Maryland 21200

Dear Ms. Have:

I have received your letter dated April 5, 2020, in which you request certain records under the Public Information Act, Annotated Code of Maryland, General Provisions Article ("GP"), § 4-101 *et seq.*, on behalf of your client, Wanda Know. In particular, you seek to inspect and copy all records in my custody and control pertaining to the following:

> (A) the denial by the Commission of the license or permit to Wanda Know which occurred on August 17, 2015, and
>
> (B) any studies, statistics, reports, recommendations, or other records that treat in any fashion the Commission's actions, practices, or procedures concerning the granting or denial of licenses or permits during the last three fiscal years.

My staff has collected those records in our custody that are responsive to your request. You may inspect all of the records we have compiled with two exceptions.

First, 13 emails between an Assistant Attorney General and the Commission's Chairman and 2 confidential legal memoranda prepared by the Assistant Attorney General for the Chairman are subject to the attorney-client privilege and are therefore protected from disclosure by GP § 4-301 as privileged or confidential records. These same materials are also covered by the deliberative process privilege, and thus exempt from disclosure under GP § 4-344. All of these records are internal materials prepared by counsel to inform the Commission of the different options available to it in considering Ms. Know's application. In accordance with GP § 4-343, I find that the

disclosure of these materials would be contrary to the public interest because it would discourage the Commission's receipt of full and frank advice and chill the free discussion of options within the agency. Moreover, because the entirety of these materials are covered by the privileges and exemptions just described, it is not possible to redact only part of the information they contain.

Second, I am also denying access to a portion of an investigatory file of this agency concerning your client. This file was compiled as part of a law enforcement investigation of this agency and is therefore covered by GP § 4-351. While your client is a person in interest as to these records, complete disclosure of the file would be contrary to the public interest since inspection would disclose the identity of a confidential source and would also disclose investigative techniques and procedures of the Commission. Apart from that portion, which has been redacted where appropriate, the balance of the investigatory file on your client is available for your inspection.

The cost of searching for and preparing the records for disclosure comes to $380, which represents 16 hours of staff time at prorated hourly salaries of $25 and $40 per hour, with the first two hours provided free of charge. You may also obtain copies of the records. This agency charges a fee of $.25 per page for copies. If you wish to inspect the records that are available to your client under the Act, please call my administrative assistant, Madge Public, to arrange for a mutually convenient time.

Pursuant to GP § 4-362, your client is entitled to seek judicial review of this decision. Alternatively, your client may file a request for mediation with the Public Access Ombudsman and, if the Ombudsman is unable to resolve the matter, may subsequently seek a resolution from the Public Information Act Compliance Board for those matters within the Compliance Board's jurisdiction. *See* GP §§ 4-1A-01 *et seq.* and 4-1B-01 *et seq.* Also, if you have any questions about this letter, please feel free to contact me.

Sincerely,

Freeman Information
Executive Director

cc: Evan Hand
Assistant Attorney General