
From: James Kreidler <jkreibler@townsend.ma.us>
Sent: Friday, September 08, 2017 10:09 AM
To: 'Joe Shank'
Cc: 'Kathy Spofford'; rao@townsend.ma.us; Carolyn Smart
Subject: RE: Records Request

Mr. Shank:

We are in receipt of your September 6, 2017 records request set forth below. Morrison Mahoney LLP ("Morrison") has been retained by the Town's insurers to represent the Town in certain litigation matters.

There are documents that are exempt from disclosure, however. Some are exempt pursuant to the attorney-client privilege, in that they constitute communications between the Town and its attorneys reflecting advice requested or provided in confidence. In withholding such records, the Town will be prepared to demonstrate that such records reflect a confidential exchange between the municipal attorney and the client concerning legal advice sought by the client about which the privilege has not been waived. Such privilege would continue to apply even in the event that the underlying question to which the advice relates has been resolved.

In addition, certain responsive records are exempt from disclosure under Exemption (a), at G.L. c.4, §7(26)(a), for records that are "specifically or by necessary implication exempted from disclosure by statute." The Open Meeting Law, at G.L. c.30A, §22(f), provides that the minutes and any other records used by a public body in executive session are exempt from disclosure as long as disclosure may defeat the purposes of the executive session. Since the matters in which Morrison is representing the Town are ongoing, any such records used or discussed in an executive session are exempt from disclosure.

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within 10 business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c.66, §10A(c).

Jim

James M. Kreidler
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If this email is received by a multi-member public board, commission or committee please take care to never "respond to all" as you may inadvertently create a violation of the open meeting law.

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics unless it falls under one of the statutory exemptions to the Public Records Law MGL Chapter 4, Section 7(26). Consequently, email is subject to the disclosure, retention and maintenance provisions as required by law. MGL Chapter 66

From: Carolyn Smart [mailto:csmart@townsend.ma.us]
Sent: Wednesday, September 06, 2017 10:17 AM
To: 'James Kreidler'
Cc: 'Kathy Spofford'
Subject: FW: Records Request

Will you send a response?

From: Joe Shank [mailto:joe@harborautobody.com]
Sent: Wednesday, September 06, 2017 10:00 AM
To: rao@townsend.ma.us
Subject: Records Request

I would like a copy of any documents or reports created by Morrison Mahoney LLP, an attorney paid for in part through town funds. As this appears it was an investigation into the TPD, it should be a considered a public record.

Thank you.

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Joe Shank
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Virus-free. www.avg.com