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Court of Appeals

MOTION Electronically Filed:
October 7, 2016 17:14

By: PATRICK S. VROBEL 0082832

Confirmation Nbr. 877499

STATE OF OHIO, EX. REL., BRIAN J. ESSI

CA 16 104659

vs.

CITY OF LAKEWOOD, OHIO

Judge:

Pages Filed: 62

**IN THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT
CUYAHOGA COUNTY, OHIO**

**State of Ohio ex rel.
BRIAN J. ESSI**

Relator,

v.

CITY OF LAKEWOOD, OHIO

Respondent.

CASE NO. CA-16-104659

ORIGINAL ACTION IN MANDAMUS

**RELATOR’S MOTION FOR LEAVE TO FILE FIRST AMENDED
COMPLAINT, INSTANTER**

Pursuant to Loc.R. 1(B) and Civ.R. 15(A), Relator Brian J. Essi (“Mr. Essi”) respectfully requests leave to file a first amended complaint, instanter, to incorporate additional facts and circumstances that have occurred since the initial pleading. Specifically, Mr. Essi requests leave to incorporate (1) a series of purported responses to Mr. Essi’s outstanding public records requests that Respondent City of Lakewood (“Lakewood”) provided after the filing of the initial pleading that are largely unresponsive to Mr. Essi’s requests and (2) an additional set of public records requests that Mr. Essi submitted after the initial pleading that Lakewood has not responded to in any way. Leave to amend should be freely granted as there is an absence of any declared or stated reason – such as bad faith, undue delay, or prejudice to the opposing party – to deny. Moreover, leave to amend should be granted as it was understood and agreed by the parties at the conclusion of the September 12, 2016 mediation that Mr. Essi would amend his complaint. The basis for this motion is provided below and the proposed amended complaint is attached.

I. STATEMENT OF THE FACTS AND OF THE CASE

On June 24, 2016, Mr. Essi initiated this original action for a writ of mandamus with respect to 225 separate public records requests. *See* Complaint for Writ of Mandamus. The Complaint seeks, among other things, “a Preemptory Writ of Mandamus or, in the alternative, an Alternative Writ of Mandamus commanding Lakewood to make the requested public records available in accordance with R.C. 149.43(B).” Complaint for Writ of Mandamus at 5.

On July 12, 2016, July 15, 2016, July 16, 2016, and August 3, 2016, Lakewood provided a series of purported responses to Mr. Essi’s outstanding public records requests.

With respect to the July 12, 2016, July 15, 2016, July 16, 2016, and August 3, 2016 purported responses, Lakewood either (1) has not provided all the responsive records; (2) failed its statutory obligation under R.C. 149.43(B)(2) to provide Mr. Essi with an opportunity to revise his requests; (3) provided Mr. Essi with denials and legal authority that are wholly improper under R.C. 149.43(B)(3); or (4) keeps the records as contemplated under the Ohio Public Records Act even though they are allegedly in the possession of a private entity.

On July 19, 2016, Lakewood answered the Complaint. *See* Answer (answering the same).

On August 30, 2016, Mr. Essi and Lakewood attempted to mediate the dispute with the assistance of this Honorable Court.

On September 12, 2016, Mr. Essi and Lakewood again attempted to mediate the dispute with the assistance of this Honorable Court. At the conclusion of the September 12, 2016 mediation it was the understanding and agreement of all parties that Mr. Essi would amend his complaint to incorporate additional facts and circumstances that occurred since the initial pleading.

On September 20, 2016, Mr. Essi submitted 97 additional public records requests.

To date, Lakewood has provided a purported response to only three of the 97 additional public records requests.

II. STANDARD OF REVIEW

Civ.R. 15(A) declares that leave to amend a pleadings shall be “freely” given “when justice so requires.”¹ The Supreme Court of the United States explains that “this mandate is to be heeded.” *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227 (1962). Civ.R. 15(A), therefore, “favors a liberal amendment policy.” *Hoover v. Sumlin*, 12 Ohio St.3d 1, 6, 465 N.E.2d 377 (1984) (modified on separate grounds). “If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part of the movant [* * *] undue prejudice to the opposing party by virtue of allowance of the amendment [* * *] etc. – the leave sought should, as the rules require, be ‘freely given.’” *Id.* This liberal amendment policy is consistent with the underlying spirit of the Civil Rules, which favor “resolution of cases upon their merits, not upon pleading deficiencies.” *Peterson v. Teodosio*, 34 Ohio St.2d 161, 175, 297 N.E.2d 113 (1973).

Application of this liberal amendment policy to the present matter demonstrates that leave should be freely given in this case

III. LAW & ARGUMENT

Leave to amend should be given in this case because the request is not made in bad faith, nor will it cause undue delay or prejudice to the opposing party.

As an initial matter, leave to amend is not being sought in bad faith. To the contrary, leave is consistent with the simplified notice pleading outlined under the Rules of Civil

¹ Local Rule 1(B)(1) provides that original actions filed with this Honorable Court are governed by the rules of civil procedure.

Procedure. Under this simplified process, the parties rely “on liberal discovery rules and summary judgment motions to define disputed facts and issues.” *Vinicky v. Pristas*, 163 Ohio App.3d 508, 2005-Ohio-5196, 839 N.E.2d 88 511, ¶ 6 (8th Dist.2005). Consistent with these rules, Mr. Essi seeks to incorporate additional facts and circumstances that occurred since his initial pleading – namely, Lakewood’s purported responses to some of Mr. Essi’s outstanding public records request and (2) additional public records requests that Mr. Essi submitted, which Lakewood has not responded to in any way. These additional facts and circumstances are the proper subject of relief and judicial economy dictates that they be incorporated into a single lawsuit. Thus, leave to amend should be granted as the request for leave is not made in bad faith.

Leave to amend should also be granted as the request is timely. The liberal procedures outlined under Civ.R. 15(A) contemplate that the parties may amend their pleadings as late as the cessation of discovery and prior to the submission of summary judgment motions. *See Tucker v. Union of Needletrades, Indus., and Textile Emps.*, 407 F.3d 784, 788 (6th Cir.2005) (holding that “if a plaintiff decides to advance a new claim as a result of such discovery, liberal amendment of the complaint is provided for by Rule 15(a)”).² Discovery has not even commenced in this matter and neither party has filed a motion for summary judgment. Therefore, leave to amend should be granted as the instant request is timely.

Finally, leave to amend should be granted as the opposing parties will not be unduly prejudiced by the proposed amendments. *See Alberto-Culver Co. v. Gillette Co.*, 408 F.Supp. 1160, 1162 (N.D.Ill. 1976) (holding that the test under Fed.Civ.R. 15(a) “must be whether *undue* prejudice would result”). As mentioned above, neither party has filed a motion for summary judgment. *See Tucker*, 407 F.3d 784 at 788 (holding that a party may not raise a new claim in

² Discussing analogous Fed.R.Civ.P. 15(a).

response to a motion for summary judgment). Moreover, Mr. Essi will be prejudiced if the motion for leave is denied. Specifically, Mr. Essi seeks to amend his complaint to assert additional facts that developed since he filed the initial pleading. Mr. Essi will be deprived of the opportunity to test his claims on the merits with respect to these additional facts if the request for leave is denied. *See Foman*, 371 U.S. 178 at 182 (holding that “if the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits”). *See also Alberto-Culver*, 408 F.Supp. 1160 at 1162 (holding that the court “must balance the general policy behind Rule 15 – that controversies should be decided on the merits – against the prejudice that would result from permitting a particular amendment. Only where the prejudice outweighs the moving party’s right to have the case decided on the merits should amendment be prohibited”).³

IV. CONCLUSION

Based upon the forgoing, Mr. Essi respectfully requests leave to file his first amended complaint, instanter.

Respectfully submitted,

/s/ Patrick Vrobel

Matthew John Markling (0068095)

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Attorneys for Relator Brian J. Essi

³ Discussing analogous Fed.R.Civ.P 15(a).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will be sent by regular U.S. Mail, on
October 10, 2016, to the following:

Kevin M. Butler, Law Director
Law Offices of Kevin M. Butler
2401 Superior Viaduct
Cleveland, Ohio 44113

John T. McLandrich
34305 Solon Road
100 Franklin's Row
Cleveland, Ohio 44139

Attorneys for Respondent City of Lakewood

/s/ Patrick Vrobel

Patrick Vrobel (0082832)

**IN THE COURT OF APPEALS
EIGHTH APPELLATE DISTRICT
CUYAHOGA COUNTY, OHIO**

**State of Ohio ex rel.
BRIAN J. ESSI**

Relator,

v.

CITY OF LAKEWOOD, OHIO

Respondent.

CASE NO. CA-16-104659

ORIGINAL ACTION IN MANDAMUS

FIRST AMENDED COMPLAINT FOR A WRIT OF MANDAMUS

Pursuant to Loc.R. 1(B) and Civ.R. 15, Relator Brian J. Essi (“Mr. Essi”) states as follows for his First Amended Complaint against Respondent City of Lakewood:

1. This is a mandamus action brought pursuant to the Ohio Public Records Act, R.C. 149.43, for a writ compelling Respondent, the City of Lakewood, Ohio, to provide Mr. Essi with copies of public records in its possession or within its control that were requested by Mr. Essi on March 15, 2016, May 13, 2016, and September 20, 2016, via certified U.S. mail, return receipt requested, as well as other appropriate relief as set forth by R.C. 149.43.
2. This Honorable Court has jurisdiction over this original action pursuant to R.C. 149.43(C)(1) and Section 3(B) of Article IV of the Ohio Constitution.
3. Respondent, the City of Lakewood, Ohio (“Lakewood”), is a municipal corporation located in Cuyahoga County, Ohio.
4. Relator, Mr. Essi, is a resident of Lakewood, Ohio.
5. Lakewood is a “public office” as defined by R.C. 149.011(A).

6. Records maintained by Lakewood are “public records” pursuant to R.C. 149.43(A)(1).
7. On March 15, 2016, Mr. Essi sent a letter via certified U.S. mail, return receipt requested, containing various public records requests to Lakewood. A true and accurate copy of Mr. Essi’s March 15, 2016 letter is attached hereto as Exhibit 1.
8. Lakewood received Mr. Essi’s March 15, 2016 letter on March 16, 2016. A true and accurate copy of the return receipt indicating that Lakewood received Mr. Essi’s March 15, 2016 letter on March 16, 2016 is attached hereto as Exhibit 2.
9. After receiving responses from Lakewood to only a few of his public records requests, and after over 45 days had passed since serving the requests on Lakewood, Mr. Essi sought to amicably resolve the issue by filing for mediation with the Ohio Attorney General’s Public Records Mediation Program on May 3, 2016.
10. On May 13, 2016, Mr. Essi sent a second letter via certified U.S. mail, return receipt requested, to Lakewood containing additional public records requests. A true and accurate copy of Mr. Essi’s May 13, 2016 letter is attached hereto as Exhibit 3.
11. Lakewood received Mr. Essi’s May 13, 2016 letter on May 16, 2016. A true and accurate copy of the return receipt indicating that Lakewood received Mr. Essi’s May 13, 2016 letter on May 16, 2016 is attached hereto as Exhibit 4.
12. On June 13, 2016, counsel for Mr. Essi was contacted by an attorney from the Ohio Attorney General’s Public Records Mediation Program to explain that Lakewood declined to participate in mediation because it believed mediation was not appropriate and premature.
13. On September 20, 2016, Mr. Essi served a third letter on Lakewood via certified U.S. mail, return receipt requested, and hand delivery containing additional public records

requests.¹ A true and accurate copy of Mr. Essi's September 20, 2016 letter is attached hereto as Exhibit 5.

14. Lakewood received Mr. Essi's September 20, 2016 letter on September 20, 2016. A true and accurate copy of the signed receipt indicating that Lakewood received Mr. Essi's September 20, 2016 letter by hand delivery on September 20, 2016 is attached hereto as Exhibit 6.
15. Mr. Essi's March 15, 2016 letter contains 173 separate public records requests numbered PRR1 through PRR 173.
16. Mr. Essi's May 13, 2016 letter contains 48 separate public records requests numbered PRR 178 through PRR 225.
17. Mr. Essi's September 20, 2016 letter contains 97 separate public records requests numbered PRR 226 through PRR 323.
18. Many of the public records requests contained in Mr. Essi's March 15, 2016 letter had been previously submitted by Mr. Essi to Lakewood via email but had never been responded to by Lakewood.
19. Mr. Essi's March 15, 2016 letter specifies that Mr. Essi believes PRR 1 through PRR 22 have already been responded to by Lakewood and that those records did not need to be produced at that time.
20. Over seven months have now passed since Mr. Essi submitted his March 15, 2016 public record requests yet few have been properly responded to, and many of those responses are incomplete or improper.
21. Lakewood has not responded in any way to PRR 227-312 and PRR 315-323.

¹ Mr. Essi amended the letter on September 28, 2016, to correct a typographical error. *See* Exhibit 6 (evidencing the same).

22. It appears that Lakewood has responded in full to PRR 80; PRR 88-91; PRR 95; PRR 103-104; PRR 106; PRR 109; PRR 111; PRR 117-119; PRR 135-136; PRR 139; PRR 146-148; PRR 154; PRR 166; PRR 169-170; PRR 188-189; PRR 193-194; PRR 197; PRR 199; and PRR 217.
23. Lakewood has provided records or responses that Lakewood alleges are responsive to the following requests: PRR 28; PRR 35-38; PRR 44; PRR 53-54; PRR 68; PRR 83; PRR 86-87; PRR 92-93; PRR 96; PRR 101; PRR 107; PRR 112; PRR 120; PRR 126-128; PRR 132-133; PRR 140-141; PRR 149; PRR 164-165; PRR 168; PRR 173; PRR 180; PRR 182; PRR 190-192; PRR 195; PRR 200-201; PRR 208; PRR 213-214; PRR 218-224; PRR 226; and PRR 313-314.
24. With respect to PRR 28; PRR 35-38; PRR 44; PRR 53-54; PRR 68; PRR 83; PRR 86-87; PRR 92-93; PRR 96; PRR 101; PRR 107; PRR 112; PRR 120; PRR 126-128; PRR 132-133; PRR 140-141; PRR 149; PRR 164-165; PRR 168; PRR 173; PRR 180; PRR 182; PRR 190-192; PRR 195; PRR 200-201; PRR 208; PRR 213-214; PRR 218-224; PRR 226 and PRR 313-314, Mr. Essi believes that not all responsive records have been provided and Lakewood refuses to verify that all responsive records have been provided.
25. Lakewood has not provided any records and denied the following requests as ambiguous or overly broad under R.C. 149.43(B)(2) such that Lakewood allegedly could not reasonably identify what public records are being requested: PRR 23-27; PRR 29-34; PRR 39-43; PRR 45-52; PRR 54-55; PRR 65; PRR 77-79; PRR 81-82; PRR 84-85; PRR 94; PRR 98-99; PRR 102; PRR 105; PRR 108; PRR 110; PRR 113-116; PRR 121-125; PRR 129-131; PRR 134; PRR 137-138; PRR 142-145; PRR 150-153; PRR 155-163;

PRR 167; PRR 171-172; PRR 178-179; PRR 181; PRR 183-187; PRR 196; PRR 198; PRR 202-207; PRR 212; PRR 215-216; and PRR 225.

26. With respect to PRR 23-27; PRR 29-34; PRR 39-43; PRR 45-52; PRR 54-55; PRR 65; PRR 77-79; PRR 81-82; PRR 84-85; PRR 94; PRR 98-99; PRR 102; PRR 105; PRR 108; PRR 110; PRR 113-116; PRR 121-125; PRR 129-131; PRR 134; PRR 137-138; PRR 142-145; PRR 150-153; PRR 155-163; PRR 167; PRR 171-172; PRR 178-179; PRR 181; PRR 183-187; PRR 196; PRR 198; PRR 202-207; PRR 212; PRR 215-216; and PRR 225, Lakewood failed its statutory obligation under R.C. 149.43(B)(2) to provide Mr. Essi with an opportunity to revise the request by informing Mr. Essi of the precise manner in which records are maintained by Lakewood and accessed in the ordinary course of the Lakewood's duties.
27. Lakewood has not provided any records, or not provided all responsive records, and denied the following public records requests with a purported explanation: PRR 120-125; PRR 172-173; PRR 202; PRR 203-207; and PRR 214.
28. With respect to PRR 120-125; PRR 172-173; PRR 202; PRR 203-207; and PRR 214, the purported explanations and legal authority provided by Lakewood are wholly improper under R.C. 149.43(B)(3).
29. Lakewood has not provided any records and denied the following public records requests because the records allegedly are not kept by Lakewood: PRR 66-76; PRR 97; PRR 100; PRR 120; and PRR 209-211.
30. With regard to PRR 66-76; PRR 97; PRR 100; PRR 120; and PRR 209-211, the alleged private entity that holds the records is the functional equivalent of a public office such that the records are kept by Lakewood and subject to the Public Records Act.

31. With regard to PRR 66-76; PRR 97; PRR 100; PRR 120; and PRR 209-211, Lakewood contracted with a private entity to perform government work such that the records are kept by Lakewood and subject to the Public Records Act even though they are allegedly in the possession of a private entity.
32. With regard to PRR 56-64, Lakewood claimed it has no responsive records other than the Lakewood Hospital Data Book because the records are in the possession of the Huron Consulting Group, which is Lakewood's contracted vendor. This is not a proper reason to withhold production of these public records. *See State ex rel. Cincinnati Enquirer v. Krings*, 93 Ohio St.3d 654, 660, 2001-Ohio-1895.
33. Lakewood's Public Records Policy, maintained on Lakewood's website at <http://www.onelakewood.com/pdf/LakewoodPublicRecordsPolicy.pdf>, last accessed October 7, 2016, explains that "responsive records will be promptly made available for inspection or copied within a reasonable period of time."
34. R.C. 149.43(B)(1) provides that "all public records responsive to [a] request shall be promptly prepared and made available * * * within a reasonable period of time."
35. Mr. Essi sent his initial public records requests to Lakewood via certified U.S. mail, return receipt requested, on March 15, 2016 — nearly seven months ago. Yet, the vast majority of his requests went unanswered for months, and were eventually improperly answered by Lakewood.
36. Mr. Essi sent his second set of public records requests to Lakewood via certified U.S. mail, return receipt requested, on May 13, 2016 — nearly five months ago. Yet, the majority of his requests went unanswered for months and were eventually improperly answered by Lakewood.

37. Mr. Essi sent his third set of public records requests to Lakewood via certified U.S. mail, return receipt requested, on September 20, 2016 — over two weeks ago. Yet, 94 of his 97 requests have gone unanswered by Lakewood.
38. Mr. Essi has a legal right to obtain the requested records and Lakewood has a legal duty to promptly make the requested records available to Mr. Essi.
39. Lakewood has violated R.C. 149.43 by failing to promptly prepare and make available the records requested by Mr. Essi within a reasonable period of time, as Mr. Essi has now waited over seven months for proper responses of any kind to the vast majority of his public records requests that were received by Lakewood on March 16, 2016, and May 16, 2016. Mr. Essi has not received any response to 95 of the 97 public records requests he served on Lakewood on September 20, 2016.
40. Mr. Essi has no adequate alternative remedy in the ordinary course of law.
41. Lakewood has no valid excuse for failing to make the requested records available to Mr. Essi.
42. Lakewood's failure to comply with R.C. 149.43(B)(2) and (3) in its initial responses to Mr. Essi's requests is resulting in an unreasonable delay in Lakewood complying with the requests.
43. For instituting this mandamus action commanding Lakewood to comply with its obligations under R.C. 149.43(B), Mr. Essi requests that this Honorable Court award him all court costs, reasonable attorney fees, and, if applicable, statutory damages as provided by R.C. 149.43(C).
44. Based on the ordinary application of statutory law and case law as it existed at the time Mr. Essi made his public records requests, Lakewood could not have reasonably

believed that its refusal to grant access to the requested records complied with R.C. 149.43(B), nor could it have reasonably believed that its refusal would serve the public policy underlying the Ohio Public Records Act.

WHEREFORE, Relator seeks the following relief:

1. A Preemptory Writ of Mandamus or, in the alternative, an Alternative Writ of Mandamus commanding Lakewood to make the requested public records available in accordance with R.C. 149.43(B);
2. Statutory damages as provided by R.C. 149.43(C)(1) for Lakewood's failure to comply with R.C. 149.43(B);
3. An order that Lakewood inform Mr. Essi of the way that Lakewood maintains its records as required under R.C. 149.43(B)(2) with respect to each public records request that Lakewood has denied in whole, or in part, so that Mr. Essi can revise his requests if necessary;
4. An order that Lakewood provide Mr. Essi with an explanation, including proper legal authority, setting forth why the request was denied with respect to each public records request that Lakewood has denied in whole, or in part, as required under R.C. 149.43(B)(3);
5. An award of reasonable attorney fees as provided under R.C. 149.43(C); and
6. Any other relief deemed just and proper by this Honorable Court.

Respectfully submitted,

/s/ Patrick Vrobel

Matthew John Markling (0068095)

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Attorneys for Relator Brian J. Essi

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will be sent by regular U.S. Mail, on
October 10, 2016, to the following:

Kevin M. Butler, Law Director
Law Offices of Kevin M. Butler
2401 Superior Viaduct
Cleveland, Ohio 44113

John T. McLandrich
34305 Solon Road
100 Franklin's Row
Cleveland, Ohio 44139

Attorneys for Respondent City of Lakewood

/s/ Patrick Vrobel

Patrick Vrobel (0082832)

**State of Ohio ex rel.
BRIAN J. ESSI**

V.

Respondent.

**AFFIDAVIT OF BRIAN J. ESSI
IN SUPPORT OF HIS FIRST
AMENDED COMPLAINT FOR A
WRIT OF MANDAMUS**

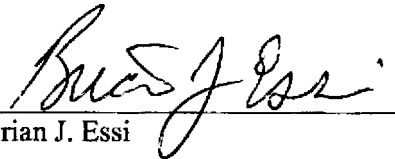
COUNTY OF CUYAHOGA

SS: AFFIDAVIT OF BRIAN J. ESSI

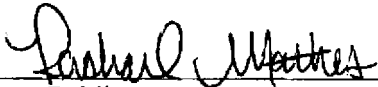
1. I am a resident of Lakewood, Ohio.
2. I have reviewed each and every line in the foregoing First Amended Complaint for a Writ of Mandamus ("Complaint") and the exhibits attached thereto.
3. I am personally familiar with all of the matters alleged in the Complaint.
4. The facts and allegations contained in the foregoing Complaint are true and accurate to the best of my knowledge.
5. The letter attached to the Complaint as Exhibit 1 is a true and accurate copy of the original and is what it purports to be.
6. The return receipt attached to the Complaint as Exhibit 2 is a true and accurate copy of the original and is what it purports to be.
7. The letter attached to the Complaint as Exhibit 3 is a true and accurate copy of the original and is what it purports to be.
8. The return receipt attached to the Complaint as Exhibit 4 is a true and accurate copy of the original and is what it purports to be.

9. The letter attached to the Complaint as Exhibit 5 is a true and accurate copy of the original and is what it purports to be.
10. The return receipt attached to the Complaint as Exhibit 6 is a true and accurate copy of the original and is what it purports to be.
11. I have a good faith belief that Respondent, the City of Lakewood, Ohio, has failed to comply with the Ohio Public Records Act, R.C. 149.43, for the reasons stated in the Complaint.

FURTHER AFFIANT SAYETH NAUGHT.


Brian J. Essi

Sworn to before me and subscribed in my presence this 7th day of October 2016.


Notary Public



RACHEL M. MATHES
Notary Public, State of Ohio
My Commission Expires
June 28th, 2020

BRIAN J. ESSI

216 346 3434
15306 Edgewater Drive
Lakewood, Ohio 44107
bjessi@sbcglobal.net

March 15, 2016

VIA CERTIFIED MAIL

Kevin M. Butler, Director of Law
City of Lakewood Law Department
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Public Records Requests – PRR1 to PRR173

Dear Law Director Butler:

This communication serves as both a public records request and documentation of the repeated failure of the City of Lakewood to comply with the Ohio Public Records Act.

Over the past 10 months, I have submitted over 100 public records requests to your public office. Under most circumstances, you and the City of Lakewood have failed to provide prompt copies within a reasonable period of time. Indeed, numerous requests have not been answered by the City of Lakewood at all. Those requests that have been answered routinely fail to comply with R.C. Chapter 149. As a result, I am reissuing all of my public requests, including additional requests, and copying the Ohio Attorney General's Office and the Ohio Auditor of the State to ensure that you and your public office properly respond to each of these requests in accordance with R.C. Chapter 149. Please note that I am also in the process of drafting additional public record requests that will be served upon you soon.

Provide the records responsive to each request to bjessi@sbcglobal.net in an electronic medium (i.e., WORD, PDF, XLS, etc.) and at no cost. **Where the request seeks correspondence or communications you must provide the actual correspondence or communication in an electronic medium.** Upon information and belief, the City of Lakewood has the practice of copying and pasting portions of a correspondence or communication rather than providing the actual document. Each request seeks, and you must provide, the actual correspondence or communication.

Please note that each item listed below is a distinct request, which is why they have been assigned separate PRR numbers. Your office must respond to each request separately and identify which records are responsive to each request – i.e., do not provide the records in a single disorganized fashion or “document dump” – as they have been assigned separate PRR numbers.

Please note that your standard, “We do not organize all records, documents, writings, drafts and notes based on _____” is not a valid denial of a public records request as

the statute requires your public office to give me the opportunity to revise the request by informing me how the City of Lakewood ordinarily maintains and accesses its records. R.C. 149.43(B)(2). You have not done so. Moreover, the City of Lakewood cannot simply refuse to produce public records because the requested public record is not kept within the walls of City Hall. For example, I am aware that the city employees and officials (including you as a prior city council member) use their personal and business email addresses to hold and create records while performing a public function for their public office and, as a result, those records are under the public office's jurisdiction and must be produced.

Where you believe the City of Lakewood has already responded to a specific records request, please identify the date that you believe your office responded to that request and provide a copy of the response, attaching the documents responsive to that request.

It cannot be overstated that the City of Lakewood must interpret the Ohio Public Records Act broadly in favor of disclosure in responding to these requests. Where the City of Lakewood denies any part of a public records request, the statute requires the City of Lakewood to give me the opportunity to revise the denied request, by informing me how the office ordinarily maintains and accesses its records. Thus, the Public Records Act expressly promotes cooperation to clarify and narrow requests that are ambiguous or overly broad, in order to craft a successful, revised request.

Where the City of Lakewood believes that any information in a public records request is exempt from the duty to permit public inspection or copying, the public office must either notify me of any redaction or make the redaction plainly visible. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Lakewood shall make available all of the information within the public record that is not exempt. Therefore, your office may redact only that part of a record subject to an exception or other valid basis for withholding. In addition, if the City of Lakewood denies a request, in part or in whole, your public office must provide me with an explanation, including legal authority, setting forth why the request was denied.

As a failure to properly respond to the below public records requests may result in litigation, the City of Lakewood is put on notice that it has an absolute duty under both the Federal and Ohio Rules of Civil Procedure to preserve information that may be relevant to a lawsuit – including electronic information or data. A violation of this duty can result in severe sanctions, including the entry of a default judgment. Electronic information systems may automatically remove or delete information as routine functions of their operating system. While the Federal and Ohio Rules of Civil Procedure may prohibit a court from imposing sanctions if the electronically stored information is lost as a result of the routine, good-faith operation of the City of Lakewood's electronic information system, such a "safe haven" does not mean that the City of Lakewood is permitted to exploit this routine function to thwart its discovery obligations. To the contrary, whenever a duty to preserve information is imposed, as has been done now, intervention in the routine operation of an information system is an essential element of that obligation. By allowing the City of Lakewood to continue to destroy stored information that it is required to preserve, the City of Lakewood exposes itself to potentially severe sanctions. Simply stated, now that the City of Lakewood reasonably anticipates litigation it must suspend its routine document retention/destruction policy and put in place a "litigation hold" to ensure the preservation of relevant documents.

Below please find my public records requests, which your public office must respond to within a reasonable period of time. The requests are divided into two categories: (1) requests in which I will presume for purposes of this document that the City of Lakewood responded to the requests and, as a result, the documents do not need to be produced at this time and (2) requests in which the City of Lakewood has never responded to and/or has never properly responded to under the Public Records Act.

It is well settled that a 72 hour timeframe to respond would constitute “without delay” and “with reasonable speed.” To that end, I expect a complete response within 72 hours. The totality of the below public record requests are not new. The fact that you have failed to respond for up to 10 months does not create an undue burden on your part or the part of your public office. If the public records requests are not responded to within a reasonable period of time, I will have no choice but to seek mediation through the Ohio Attorney General’s public records mediation program or file an action in mandamus against your public office and/or yourself.

RECORDS WHICH DO NOT NEED TO BE PRODUCED AT THIS TIME:

- PRR1 A copy of the minutes from the April 27, 2015 City Council meeting.
- PRR2 Mayor Summer’s May 18, 2015 request for proposals or letter to Dr. Akram Boutros (“Dr. Boutros”) and/or the MetroHealth System (“MetroHealth”).
- PRR3 The “power point” presentation or proposal by MetroHealth to the LHA provided in September of 2014.
- PRR4 The 2nd Quarter LHA financial statements for the period ending June 30, 2015.
- PRR5 All audited financial statements of the LHA for the years 1990 through 2007.
- PRR6 The audited financial statements of the LHA for 2014.
- PRR7 The audited financial statements of the LHA for 2015.
- PRR8 The audited financial statements of the LHA for 2016.
- PRR9 All financial statements of the LHA for July 2015 and August 2015.
- PRR10 All records, notes, and communications – electronic or otherwise – indicating how and when the City of Lakewood, or any employee or official, came into possession of and posted to onelakewood.com the following electronic documents and records:

<http://www.onelakewood.com/pdf/Lakewood%20Hospital/LHA/Subsidium%20Slides%20of%202.pdf>.
- PRR11 The Subsidium Healthcare’s Lakewood Hospital Data Book.

- PRR12 The “Lakewood City Council Committees of the Whole Considering the Letter of Intent.”
- PRR13 All records, notes, and communications – electronic or otherwise – relied upon by Mayor Summers in his October 2015 campaign flier that the City of Lakewood has “added 75 new businesses and more than \$80 million in private investment since I’ve been mayor.”
- PRR14 All records, notes, and communications – electronic or otherwise – identifying the 75 businesses referred to in the October 2015 campaign flier distributed by Mayor Summers.
- PRR15 All records, notes, and communications – electronic or otherwise – relied upon by Mayor Summers in his October 2015 campaign flier that “it will require an enormous tax on residents just to keep outdated Lakewood Hospital open.”
- PRR16 The Title Commitment dated November 13, 2015 referred to in Section 5(b) of the FHC Site Sale Agreement.
- PRR17 All records, notes, and communications – electronic or otherwise – relating to the “lot split/consolidation plat,” including drafts referred to in the footnote on page G-1 of the FHC Site Sale Agreement.
- PRR18 All records, notes, and communications – electronic or otherwise – relating to the relocation of City Hall, or any function of City Hall, to the Lakewood Hospital site and/or to a central location in downtown Lakewood.
- PRR19 All records, notes, and communications – electronic or otherwise – relating to the relocation of City Hall or any function of City Hall.
- PRR20 All records, notes, and communications – electronic or otherwise – distributed or in the possession of any Lakewood City employee or official at the meeting held on February 27, 2016, and known as a “retreat.”
- PRR21 All records, notes, and communications – electronic or otherwise – created or taken by any Lakewood City employee or official at the meeting held on February 27, 2016, and known as a “retreat.”
- PRR22 All correspondence and communications – electronic or otherwise – by or among any Lakewood City employee or official regarding planning the meeting held on February 27, 2016, and known as a “retreat.”

RECORDS WHICH MUST BE PRODUCED:

- PRR23 All records, notes, and communications – electronic or otherwise – signed by Mayor Mike Summers (“Mayor Summers”), Former City Council President Mary Louise Madigan (“Madigan”), and/or Councilmember Tom Bullock (“Bullock”)

in which they agreed to keep any information or trade secrets of the Lakewood Hospital Association (“LHA”) private.

- PRR24 All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan, and/or Bullock regarding the LHA.
- PRR25 All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan, and/or Bullock in which they agreed to keep any information or trade secrets of the Cleveland Clinic Foundation or Cleveland Clinic (collectively, “Cleveland Clinic”) private.
- PRR26 All records, notes, and communications – electronic or otherwise – signed by Mayor Summers, Madigan and/or Bullock regarding the Cleveland Clinic.
- PRR27 All records, notes, and communications – electronic or otherwise – signed or agreed to by Mayor Summers, Madigan and/or Bullock as trustees of the LHA including, but not limited to, the Cleveland Clinic Code of Conduct, or any similar document.
- PRR28 All records, notes, and communications – electronic or otherwise – provided by the LHA to Mayor Summers, Madigan, and/or Bullock by the LHA from May 4, 2015, to the present.
- PRR29 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and Michael Meehan (“Meehan”) that refers or relates to Mayor Michael Summers’ May 18, 2015 letter to Dr. Boutros and/or MetroHealth.
- PRR30 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and Meehan.
- PRR31 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any employee of The Cleveland Clinic Foundation that refers or relates to Mayor Summers’ May 18, 2015 letter to Dr. Boutros and/or MetroHealth.
- PRR32 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any employee of The Cleveland Clinic Foundation from January 1, 2015, to the present.
- PRR33 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any individual that refers or relates to Mayor Michael Summers’ May 18, 2015 letter to Dr. Boutros and/or MetroHealth.
- PRR34 All records, notes, and communications – electronic or otherwise – relating the “power point” presentation or proposal by MetroHealth to the LHA provided in

- PRR35 All quarterly or other financial reports, of any kind or nature, audited or unaudited, for the LHA for the period of January 1, 2014, to the present.
- PRR36 The materials and handouts provided by the LHA to Mayor Summers, Madigan, and/or Bullock at any LHA trustee meeting from January 1, 2015, to the present.
- PRR37 The materials and handouts provided by the LHA to Mayor Summers, Madigan, and/or Bullock from January 1, 2015, to the present.
- PRR38 Any and all notes or recordings made by Mayor Summers, Madigan, and/or Bullock during any LHA trustee meetings from January 1, 2015, to the present.
- PRR39 All records, notes, and communications – electronic or otherwise – relating to the resignation of Joseph Gibbons (“Gibbons”) as a trustee of the LHA.
- PRR40 All records, notes, and communications – electronic or otherwise – relating to any individual(s) considered as a candidate or successor to Gibbons.
- PRR41 All records, notes, and communications – electronic or otherwise – relating to landscaping design plans prepared by David Stein (“Stein”), or any business owned or operated by Stein, concerning the Lakewood Hospital property or any future plan involving the Lakewood Hospital.
- PRR42 All records, notes, and communications – electronic or otherwise – relating to landscaping design plans prepared by Stein, or any business owned or operated by Stein.
- PRR43 Any contract, agreement, or understanding with Stein, or any business owned or operated by Stein, concerning landscape design plans for the Lakewood Hospital property or any future plan involving the Lakewood Hospital.
- PRR44 All correspondence and communications – electronic or otherwise – between or among Stein and any employee or official of the City of Lakewood from December 1, 2015, to the present.
- PRR45 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Rocky River (“Rocky River”) that refer or relate to the transportation of patients, or the failure to transport potential patients, to the Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.
- PRR46 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of Rocky River from January 1, 2015, to the present.

- PRR47 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Fairview Park (“Fairview Park”) that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.
- PRR48 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of Fairview Park from January 1, 2015, to the present.
- PRR49 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Cleveland that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 1, 2015, to the present.
- PRR50 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any representative of the City of Cleveland from January 1, 2015, to the present.
- PRR51 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any Lakewood Hospital Service Area paramedic, EMS, or emergency response providers that refer or relate to the transportation of patients or failure to transport potential patients to Lakewood Hospital, Fairview Hospital, Lutheran Hospital, or any other local area hospital from January 15, 2015, to the present.
- PRR52 All correspondence and communications – electronic or otherwise – between or among Mayor Summers and any Lakewood Hospital Service Area paramedic, EMS, or emergency response providers from January 15, 2015, to the present.
- PRR53 The visitor log and/or any related log that documents which individual(s) visited Mayor Michael Summers’ office from January 1, 2015, until the present.
- PRR54 All records, notes, and communications – electronic or otherwise – indicating how and when the City of Lakewood, or any employee or official, came into possession of and posted to onelakewood.com the following electronic documents and records:

<http://www.onelakewood.com/pdf/Lakewood%20Hospital/LHA/Subsidium%20Slides%20of%20.pdf>.
- PRR55 All records, notes, and communications – electronic or otherwise – relating to Subsidium slides, letters, reports, emails, and documents that have not posted on onelakewood.com.
- PRR56 The Cleveland Clinic’s 2014 Shared Administrative Service Allocation (Lakewood Brief) Presentation.

- PRR57 All records, notes, and communications – electronic or otherwise – relating to the Cleveland Clinic’s 2014 Shared Administrative Service Allocation Presentation.
- PRR58 The Cleveland Clinic’s LHA 2014 Administrative Services Details and Allocation Methodology Excel File.
- PRR59 All records, notes, and communications – electronic or otherwise – relating to the Cleveland Clinic’s LHA 2014 Administrative Services Details and Allocation Methodology Excel File.
- PRR60 All records, notes, and communications – electronic or otherwise – relating to the Subsidiary Healthcare’s Lakewood Hospital Data Book.
- PRR61 The patient day data for the fiscal years December 31, 2010, through 2014, and the year-to-date period ending June 30, 2015.
- PRR62 The Subsidiary Healthcare’s Lakewood Hospital Association Board of Trustees Strategic Options Evaluation Process, dated January 12, 2015.
- PRR63 All records, notes, and communications – electronic or otherwise – relating to the Subsidiary Healthcare’s Lakewood Hospital Association Board of Trustees Strategic Options Evaluation Process, dated January 12, 2015.
- PRR64 All records, notes, and communications – electronic or otherwise – relating to key performance metrics for the Lakewood Hospital for the year-to-date period ending November 30, 2013, and the fiscal year ending December 31, 2014.
- PRR65 All records, notes, and communications – electronic or otherwise – relating to any claim by the Cleveland Clinic that it does not have a general obligation to fund operating losses for the LHA or Lakewood Hospital.
- PRR66 All correspondence and communications – electronic or otherwise – between or among the law firm of Thompson Hine (“Thompson Hine”) and the Huron Consulting Group (“Huron Consulting”), or their representatives, regarding the Lakewood Hospital.
- PRR67 All correspondence and communications – electronic or otherwise – between or among Thompson Hine and Huron Consulting, or their representatives, regarding Thompson Hine’s engagement as attorneys for the City of Lakewood.
- PRR68 All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the LHA conducted by Thompson Hine.
- PRR69 All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the LHA conducted by Huron Consulting.

- PRR70 All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the Cleveland Clinic conducted by Thompson Hine.
- PRR71 All records, notes, and communications – electronic or otherwise – relating to any interviews of representatives of the Cleveland Clinic conducted by Huron Consulting.
- PRR72 Any confidentiality agreement(s) signed by Huron Consulting, or any of its representatives, relating to proprietary or confidential documentation provided by the Cleveland Clinic regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.
- PRR73 All records, notes, and communications – electronic or otherwise – relating to any confidentiality agreement(s) signed by Huron Consulting, or its representatives, relating to proprietary or confidential documentation provided by the Cleveland Clinic regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.
- PRR74 All records, notes, and communications – electronic or otherwise – relating to any confidentiality agreement(s) signed by Huron Consulting, or its representatives.
- PRR75 All records, notes, and communications – electronic or otherwise – relating to documentation provided by the Cleveland Clinic to Huron Consulting regarding specific fees incurred and the allocation of those fees with respect to the LHA or Lakewood Hospital.
- PRR76 All records, notes, and communications – electronic or otherwise – reviewed by Huron Consulting in preparing the Huron Report.
- PRR77 All records, notes, and communications – electronic or otherwise – relating to clinical and administrative service fees that are incurred by the Cleveland Clinic and allocated to the Lakewood Hospital.
- PRR78 All records, notes, and communications – electronic or otherwise – relating to clinical and administrative service fees that are direct costs incurred by the Cleveland Clinic and allocated to the Lakewood Hospital.
- PRR79 All records, notes, and communications – electronic or otherwise – relating to any informed consent given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Kevin Butler (“Law Director Butler”).
- PRR80 All records, notes, and communications – electronic or otherwise – relating to any informed consent given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Butler regarding the case of *Graham v. City of Lakewood*, Cuyahoga No. CV-15-846212 (Judge O’Donnell).

- PRR81 All records, notes, and communications – electronic or otherwise – relating to any informed consent, confirmed in writing, given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Butler with respect to the 2010 ordinance/resolution.
- PRR82 All records, notes, and communications – electronic or otherwise – relating to any informed consent given by Mayor Summers, the City of Lakewood, Lakewood City Council, or any member of City Council to Law Director Butler with respect to allegations against Mayor Summers for conspiracy.
- PRR83 All records, notes, and communications – electronic or otherwise – relating to any engagement letter concerning representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.
- PRR84 All records, notes, and communications – electronic or otherwise – relating to any conflict of interest concerning the representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.
- PRR85 All records, notes, and communications – electronic or otherwise – relating to any informed consent, and/or waiver of a conflict of interest concerning the representation of the City of Lakewood and/or Mayor Summers by Thompson Hine or any lawyer employed by Thompson Hine.
- PRR86 All records, notes, and communications – electronic or otherwise – relating to legal bills presented to the City of Lakewood by Thompson Hine from January 1, 2015, to the present.
- PRR87 All records, notes, and communications – electronic or otherwise – relating to any records of payment of legal bills presented to the City of Lakewood by Thompson Hine from January 1, 2015, to the present.
- PRR88 All records, notes, and communications – electronic or otherwise – relating to any conflict of interest concerning representation of the City of Lakewood and/or Mayor Summers by any law firm or any lawyer concerning the case of *Graham v. City of Lakewood*, Cuyahoga No. CV-15-846212 (Judge O'Donnell).
- PRR89 All records, notes, and communications – electronic or otherwise – relating to any informed consent or waiver of a conflict of interest concerning representation of the City of Lakewood and/or Mayor Summers by any law firm or any lawyer concerning the case of *Graham v. City of Lakewood*, Cuyahoga No. CV-15-846212 (Judge O'Donnell).
- PRR90 All records, notes, and communications – electronic or otherwise – relating to any legal bills presented to the City of Lakewood by any lawyer or law firm concerning the case of *Graham v. City of Lakewood*, Cuyahoga No. CV-15-846212 (Judge O'Donnell) from April 14, 2015, to the present.

- PRR91 All records, notes, and communications – electronic or otherwise – relating to any records of payment of legal bills presented to the City of Lakewood by any lawyer or law firm concerning the case of *Graham v. City of Lakewood*, Cuyahoga No. CV-15-846212 (Judge O'Donnell) from April 14, 2015, to the present.
- PRR92 All records, notes, and communications – electronic or otherwise – relating to the engagement letter or contract with Hennes Communications, or any other public relations or consulting firm, from January 1, 2015, to the present.
- PRR93 All records, notes, and communications – electronic or otherwise – relating to any services rendered or bills or charges for services rendered to the City of Lakewood by Hennes Communications, or any other public relations or consulting firm or public relations person, from January 1, 2015, to the present.
- PRR94 All records, notes, and communications – electronic or otherwise – relating to any records of payment of bills or charges for services rendered to the City of Lakewood by Hennes Communications, or any other public relations or consulting firm or public relations person, from January 1, 2015, to the present.
- PRR95 All records, notes, and communications – electronic or otherwise – relied upon by Mayor Summers in drafting his “State of the City” addresses.
- PRR96 All records, notes, and communications – electronic or otherwise – related to businesses that have closed or left Lakewood since Mr. Summers has been mayor.
- PRR97 Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of the LHA, and/or the Cleveland Clinic on November 30, 2015.
- PRR98 All records, notes, and communications – electronic or otherwise – related to any agreements concerning the Lakewood Hospital discussed, approved, or agreed to by the LHA or any committee of the LHA.
- PRR99 All records, notes, and communications – electronic or otherwise – related to any agreements concerning the Lakewood Hospital discussed, approved, or agreed to by the Cleveland Clinic.
- PRR100 Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of the LHA, and/or the Cleveland Clinic during the week of November 29, 2015.
- PRR101 Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, the subject of the Lakewood City Council Meeting held on December 7, 2015.

- PRR102 Any draft, signed, or unsigned agreement or proposal concerning the Lakewood Hospital that was, or may have been, discussed, approved, or agreed to by the LHA, or any committee of LHA, and/or the Cleveland Clinic during the week of December 6, 2015.

- PRR103 All correspondence and communications – electronic or otherwise – from Surgical Development Partners to the City of Lakewood, its employees, or officials, concerning the Lakewood Hospital and/or 850 Columbia Road from November 23, 2015, through November 30, 2015.

- PRR104 All correspondence and communications – electronic or otherwise – from Surgical Development Partners (SDP) to the City of Lakewood, its employees, or officials.

- PRR105 All records, notes, audio recordings or records of conversations between Mayor Summers and any representative of SDP.

- PRR106 All records, notes, audio recordings or records of any conversations between Tom Bullock and any representative of SDP

- PRR107 All records, notes, and communications – electronic or otherwise – delivered to Lakewood City Councilmembers on December 6, 2015.

- PRR108 All records, notes, and communications – electronic or otherwise – relating to the “survey,” including drafts, referred to in the footnote on page G-1 of the FHC Site Sale Agreement.

- PRR109 The appraisal reflecting the “appraised value in the Summer of 2015” referred to in paragraph 5(d) of the “Key Highlights of Master Agreement” distributed by Law Director Butler at the City Council on December 7, 2015.

- PRR110 All records, notes, and communications – electronic or otherwise – reflecting valuation or appraisals of assets used in the operation of the Lakewood Hospital belonging to the LHA and/or the City of Lakewood.

- PRR111 All liability insurance policies covering the City of Lakewood and its officials for losses incurred from January 1, 2011, to the present date.

- PRR112 All liability insurance policies covering Mayor Summers, Mary Madigan and Tom Bullock as required by the Master Agreement.

- PRR113 All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and First American Title Company, or its employees, concerning the planning and/or preparation for the transactions contemplated by the FHC Site Sale Agreement including the Lot Split Approval.

- PRR114 All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and First American Title Company, or its employees.
- PRR115 All correspondence and communications – electronic or otherwise – between or among any Lakewood City employee or official and any Cuyahoga County employee or official concerning the planning and/or preparation for the transactions contemplated by the FHC Site Sale Agreement including the Lot Split Approval.
- PRR116 All correspondence and communications – electronic or otherwise – between or among any Lakewood City official or employee, the LHA, any LHA trustee, and any LHA employee or official concerning Section 9.9 of the 1996 Lease between the LHA and City of Lakewood.
- PRR117 All audio and/or video records of Mayor Summers’ February 24, 2016 State of the City speech.
- PRR118 All notes, drafts and the final copy of Mayor Summers’ February 24, 2016 State of the City speech.
- PRR119 All power point slides shown during Mayor Summers’ February 24, 2016 State of the City speech.
- PRR120 All correspondence and communications – electronic or otherwise – between or among Law Director Butler, Mayor Summers, Bullock, Paul Colarusso (“Colarusso”), and/or John Bodine (“Bodine”) from January 1, 2015, to the present.
- PRR121 All correspondence and communications – electronic or otherwise – from and/or to Law Director Butler from January 1, 2015, to the present.
- PRR122 All correspondence and communications – electronic or otherwise – from and/or to Mayor Summers from January 1, 2011, to the present.
- PRR123 All correspondence and communications – electronic or otherwise – from and/or to Bullock from January 1, 2015, to the present.
- PRR124 All correspondence and communications – electronic or otherwise – from and/or to Colarusso from June 1, 2015, to the present.
- PRR125 All correspondence and communications – electronic or otherwise – from and/or to Bodine from June 1, 2015, to the present.
- PRR126 All records, notes, and communications – electronic or otherwise – relating to invoices and time records submitted by Huron Consulting.

- PRR127 All records, notes, and communications – electronic or otherwise – relating to engagement letters or contracts with Huron Consulting.
- PRR128 All records, notes, and communications – electronic or otherwise – relating to any representation by the LHA, or any representative of the LHA, regarding bankruptcy.
- PRR129 All correspondence and communications – electronic or otherwise – by the LHA, or any representative of the LHA, to any Lakewood City official or elected leader regarding public bidding, listing, requests for proposal, and/or marketing of any or all of the assets used in connection with the Lakewood Hospital.
- PRR130 All correspondence and communications – electronic or otherwise – by any Lakewood City employee or official regarding bidding, listing, requests for proposal, and/or marketing concerning the Lakewood Hospital or any or all of the assets used in the conduct of Lakewood Hospital.
- PRR131 All correspondence and communications – electronic or otherwise – in which the LHA, or any representative, responded to any communication requesting that the LHA conduct a bidding, listing, request for proposal and/or marketing concerning the Lakewood Hospital or any or all of the assets used in the conduct of the Lakewood Hospital.
- PRR132 All records, notes, and communications – electronic or otherwise – concerning the LHA filing for bankruptcy or the potential thereof.
- PRR133 All records, notes, and communications – electronic or otherwise – relating to plans, drawings, financial analysis, costs analysis, and other analysis of the costs and expenses of City Hall operations and/or relocation of City Hall operations.
- PRR134 All records, notes, and communications – electronic or otherwise – relating to financial or performance results for the LHA from October 1, 2015, to the present. This request includes all records, notes, and communications – electronic or otherwise – in the files of Law Director Butler, Thompson Hine, its attorneys, and Mr. Cahill who were all agents of the City.
- PRR135 The “log” or other record used by the City of Lakewood to track and record the names and dates of persons making public records requests and the dates of the responses to those requests for the period of January 1, 2008, through February 8, 2016.
- PRR136 All correspondence and communications – electronic or otherwise – from Madigan to Mayor Summers concerning “campaign” mode that is referred to in Madigan’s email of March 25, 2015.
- PRR137 All correspondence and communications – electronic or otherwise – from Madigan to Mayor Summers from January 1, 2015, to the present.

- PRR138 All correspondence and communications – electronic or otherwise – from Mayor Summers to Madigan from January 1, 2015, to the present.
- PRR139 All meeting minutes of Lakewood City Council, including special meetings and committee meetings, from October 1, 2010, through March 31, 2011.
- PRR140 Mayor Summer’s complete personnel file.
- PRR141 Law Director Butler’s complete personnel file.
- PRR142 All records, notes, and communications – electronic or otherwise – relating to any preemptory bids received by the City of Lakewood, its employees, or officials.
- PRR143 All records, notes, and communications – electronic or otherwise – that discuss or evaluate whether the City of Lakewood had an obligation to conduct a public bidding process with respect to the Lakewood Hospital.
- PRR144 All records, notes, and communications – electronic or otherwise – that discuss or evaluate any private bidding process with respect to the Lakewood Hospital conducted by an entity other than the City of Lakewood.
- PRR145 All records, notes, and communications – electronic or otherwise – relating to any public, private or other selection process with respect to future lessees, future owners or future delivery of health services with respect to the Lakewood Hospital or the LHA.
- PRR146 All records, notes, and communications – electronic or otherwise – that that reflect a contractual relationship with the consulting firm Subsidiem and the City of Lakewood.
- PRR147 All records, notes, and communications – electronic or otherwise – that reflect a confidential or non-disclosure relationship with the consulting firm Subsidiem and the City of Lakewood.
- PRR148 All records, notes, and communications – electronic or otherwise – relating to any authorization by any City of Lakewood employee or official for Subsidiem to represent itself as acting on behalf of the City of Lakewood with respect to the Lakewood Hospital or its programs and services or assets.
- PRR149 All records, notes, and communications – electronic or otherwise – that reflect any request for proposal(s) issued by the City of Lakewood with respect to the Lakewood Hospital or the LHA.
- PRR150 All records, notes, and communications – electronic or otherwise – that reflect the drafting or preparation for any request for proposals with respect to the Lakewood Hospital or the LHA.

- PRR151 All records, notes, and communications – electronic or otherwise – that reflect the development of guidelines or criteria for any request for proposals with respect to the Lakewood Hospital or the LHA.
- PRR152 All records, notes, and communications – electronic or otherwise – that reflect any review by any City of Lakewood employee or official of any proposal received by Subsidium in response to any request for proposal(s) issued by Subsidium related to the Lakewood Hospital or the LHA, its programs, services, or assets.
- PRR153 All records, notes, and communications – electronic or otherwise – that reflect any review by any individual or entity of any proposal received by Subsidium in response to any request for proposal issued by Subsidium related to the Lakewood Hospital or the LHA, its programs, services, or assets.
- PRR154 All records authorizing Subsidium to issue the Preliminary Memorandum on behalf of the City of Lakewood to any party.
- PRR155 All records, notes, and communications – electronic or otherwise – that reflect any review by any individual or entity of any proposal received by Subsidium in response to the Preliminary Memorandum issued by Subsidium related to the Lakewood Hospital or the LHA, its programs, services, or assets.
- PRR156 All records, notes, and communications – electronic or otherwise – that reflect any review by any City of Lakewood employee or official of any proposal received by such employee or official with respect to the Lakewood Hospital, its programs, services, or assets.
- PRR157 All records, notes, and communications – electronic or otherwise – regarding discussions, meetings or negotiations between any City of Lakewood employee or official with Subsidium.
- PRR158 All records, notes, and communications – electronic or otherwise – regarding discussions, meeting, or negotiations between any City of Lakewood council member with Subsidium.
- PRR159 All records, notes, and communications – electronic or otherwise – regarding discussions, meetings or negotiations between any City of Lakewood employee or official with the LHA, its board members, the Cleveland Clinic Foundation, and/or its board members or trustees, related to the Lakewood Hospital or LHA.
- PRR160 All records, notes, and communications – electronic or otherwise – regarding discussions, meetings, or negotiations between any City of Lakewood council member with the LHA, its board members, the Cleveland Clinic, and/or its board members or trustees, related to the Lakewood Hospital or LHA.

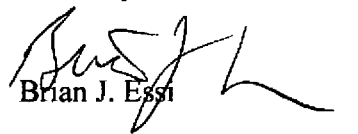
- PRR161 All records, notes, and communications – electronic or otherwise – in which any party to the Master Agreement discusses whether any of the parties are required to file a Hart-Scott-Rodino pre-merger filing notice.
- PRR162 All records, notes, and communications – electronic or otherwise – in which any party to the Master Agreement discusses whether any of the parties are not required to file a Hart-Scott-Rodino pre-merger filing notice.
- PRR163 All records, notes and communications—electronic or otherwise—regarding preemptory bids issued by any person or entity which preemptory bids relate to Lakewood Hospital and were communicated to or received by the City of Lakewood or any elected or public official of the City of Lakewood. For purposed of this request, the term “preemptory bids” shall have the meaning described by Mayor Summers in the public record:
<https://youtu.be/SyRzqzOuFGA?t=1h12m9s>
- PRR164 All records and communications –electronic or otherwise--from LHA and/or the Cleveland Clinic to the City of Lakewood on or after January 1, 2015 through the present containing a certificate of Authorized Lessee Representative stating that to the best of his/her knowledge, the Lessee (LHA) and the Member (The Cleveland Clinic Foundation) are in compliance with all the material terms and conditions of of the Lease and Definitive Agreement.
- PRR165 All records and communications – electronic or otherwise – of the March 23, 2015 email from Madigan to Law Director Butler showing the email account of all recipients of that email. Note this email was produced to me on March 10, 2015.
- PRR166 The email Madigan sent to “Mike” as referenced in her March 24, 2015 email.
- PRR167 All records, notes and communications by Bullock to any person regarding the Colarusso email responses of September 29, 2015, at 5:10 p.m.
- PRR168 All records and communications – electronic or otherwise – of the signed Master Agreement and all ancillary agreements signed by any city official regarding the execution or performance of the Master Agreement.
- PRR169 The blue attachment to Law Director Butler’s email to me dated December 9, 2015, at 7:46 p.m., that begins with the title “246692676....” and is unreadable in the format sent. Please resend in a readable format.
- PRR170 Law Director Butler’s email to me dated December 9, 2015, at 7:46 p.m., produced part of an email that begins with the phrase: “Thank you, Mr. Sossi. We appreciate your efforts to fill in the blanks in your client’s initial correspondence.”
Produce a complete copy of that email including all records and communications –electronic or otherwise— of all parties Law Director Butler copied on that email and records of who Law Director Butler may have forwarded that email to.

- PRR171 All records and communications – electronic or otherwise – between and among Law Director Butler and Jeff Huntsberger (“Huntsberger”).
- PRR172 All records and communications – electronic or otherwise – between and among Thompson Hine and Huntsberger.
- PRR173 All records and communications – electronic or otherwise – between and among Law Director Butler and Meehan.

As I am requesting these public records in an electronic medium, no charge can be levied for the instant public records requests as a matter of law. If the requested records cannot be transmitted in an electronic format, you must provide an explanation as to why they cannot be transmitted in the preferred format.

Thank you for your kind attention to this request. Your cooperation is greatly appreciated.

Sincerely,


Brian J. Essi

cc: Ohio Attorney General Mike DeWine, Public Records Unit
(mediation@ohioattorneygeneral.gov)
Ohio Auditor of State Dave Yost, Open Government Unit (ogu@auditor.state.oh.us)
Mike Summers, Mayor (mike.summers@lakewoodoh.net)
Dru Siley, Director of Planning and Development (dru.siley@lakewoodoh.net)
Sam O’Leary, President of Council (sam.oleary@lakewoodoh.net)
David W. Anderson, Vice-President of Council (david.anderson@lakewoodoh.net)
John Litten, Councilmember (john.litten@lakewoodoh.net)
Dan O’Malley, Councilmember (dan.omalley@lakewoodoh.net)
Thomas Bullock, Councilmember (tom.bullock@lakewoodoh.net)
Cindy Marx, Councilmember (ryan.nowlin@lakewoodoh.net)
Ryan Nowlin, Councilmember (ryan.nowlin@lakewoodoh.net)

USPS TRACKING #



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First-Class Mail
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USPS
Permit No. G-10

United States
Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

Brian ESSI
15306 Edgewater Drive
Lakewood, Ohio 44107

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kevin Butler, Director of La
City of Lakewood Law Dept
12650 Delcor Avenue
Lakewood, Ohio 44107



9590 9402 1254 5246 3436 63

2. Article Number (Transfer from service label)

7015 0640 0000 5234 4858

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x Math Vainich

☐ Agt

☐ Adc

B. Received by (Printed Name)

Math Vainich

C. Date of Delivery

3/16/16

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Return Receipt for Merchandise

☐ Signature Confirmation

☐ Signature Confirmation Restricted Delivery

Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

Electronically Filed 10/07/2016 17:14 / MOTION / CA 16 104659 / Confirmation Nbr. 877499 / CLEJK

Exhibit 2

BRIAN J. ESSI

216 346 3434
15306 Edgewater Drive
Lakewood, Ohio 44107
bjessi@sbcglobal.net

May 13, 2016

VIA CERTIFIED MAIL

Kevin M. Butler, Director of Law
City of Lakewood Law Department
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Public Records Requests – PRR178 to PRR225

Dear Law Director Butler:

This communication serves as both a public records request and documentation of the repeated failure of the City of Lakewood to comply with the Ohio Public Records Act.

Over the past 12 months, I have submitted over 150 public records requests to your public office. Under most circumstances, you and the City of Lakewood have failed to provide prompt copies within a reasonable period of time. Indeed, numerous requests have not been answered by the City of Lakewood at all. Those requests that have been answered routinely fail to comply with R.C. Chapter 149. As a result, I am copying the Ohio Attorney General's Office and the Ohio Auditor of the State to ensure that you and your public office properly respond to each of these requests in accordance with R.C. Chapter 149.

Provide the records responsive to each request to bjessi@sbcglobal.net in an electronic medium (i.e., WORD, PDF, XLS, etc.) and at no cost. **Where the request seeks correspondence or communications you must provide the actual correspondence or communication in an electronic medium.** Upon information and belief, the City of Lakewood has the practice of copying and pasting portions of a correspondence or communication rather than providing the actual document. Each request seeks, and you must provide, the actual correspondence or communication.

Please note that each item listed below is a distinct request, which is why they have been assigned separate PRR numbers. Your office must respond to each request separately and identify which records are responsive to each request – i.e., do not provide the records in a single disorganized fashion or “document dump” – as they have been assigned separate PRR numbers.

Please note that your standard, “We do not organize all records, documents, writings, drafts and notes based on _____” is not a valid denial of a public records request as the statute requires your public office to give me the opportunity to revise the request by informing me how the City of Lakewood ordinarily maintains and accesses its records. R.C.

149.43(B)(2). You have not done so. Moreover, the City of Lakewood cannot simply refuse to produce public records because the requested public record is not kept within the walls of City Hall. For example, I am aware that the city employees and officials (including you as a prior city council member) use their personal and business email addresses to hold and create records while performing a public function for their public office and, as a result, those records are under the public office's jurisdiction and must be produced.

Where you believe the City of Lakewood has already responded to a specific records request, please identify the date that you believe your office responded to that request and provide a copy of the response, attaching the documents responsive to that request.

It cannot be overstated that the City of Lakewood must interpret the Ohio Public Records Act broadly in favor of disclosure in responding to these requests. Where the City of Lakewood denies any part of a public records request, the statute requires the City of Lakewood to give me the opportunity to revise the denied request, by informing me how the office ordinarily maintains and accesses its records. Thus, the Public Records Act expressly promotes cooperation to clarify and narrow requests that are ambiguous or overly broad, in order to craft a successful, revised request.

Where the City of Lakewood believes that any information in a public records request is exempt from the duty to permit public inspection or copying, the public office must either notify me of any redaction or make the redaction plainly visible. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Lakewood shall make available all of the information within the public record that is not exempt. Therefore, your office may redact only that part of a record subject to an exception or other valid basis for withholding. In addition, if the City of Lakewood denies a request, in part or in whole, your public office must provide me with an explanation, including legal authority, setting forth why the request was denied.

As a failure to properly respond to the below public records requests may result in litigation, the City of Lakewood is put on notice that it has an absolute duty under both the Federal and Ohio Rules of Civil Procedure to preserve information that may be relevant to a lawsuit – including electronic information or data. A violation of this duty can result in severe sanctions, including the entry of a default judgment. Electronic information systems may automatically remove or delete information as routine functions of their operating system. While the Federal and Ohio Rules of Civil Procedure may prohibit a court from imposing sanctions if the electronically stored information is lost as a result of the routine, good-faith operation of the City of Lakewood's electronic information system, such a "safe haven" does not mean that the City of Lakewood is permitted to exploit this routine function to thwart its discovery obligations. To the contrary, whenever a duty to preserve information is imposed, as has been done now, intervention in the routine operation of an information system is an essential element of that obligation. By allowing the City of Lakewood to continue to destroy stored information that it is required to preserve, the City of Lakewood exposes itself to potentially severe sanctions. Simply stated, now that the City of Lakewood reasonably anticipates litigation it must suspend its routine document retention/destruction policy and put in place a "litigation hold" to ensure the preservation of relevant documents.

Below please find my public records requests, which your public office must respond to within a reasonable period of time. It is well settled that a 72-hour timeframe to respond would constitute “without delay” and “with reasonable speed.” To that end, I expect a complete response within 72 hours. If the public records requests are not responded to within a reasonable period of time, I will have no choice but to seek mediation through the Ohio Attorney General’s public records mediation program or file an action in mandamus against your public office and/or yourself. The defined terms below shall have the same meaning as set forth in my March 15, 2015 requests.

- PRR178 All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Cuyahoga County government regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio Lakewood Hospital Association (“LHA”) official and any employee or official of the Cuyahoga County government.
- PRR179 All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Cuyahoga County government with respect to any proposal regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio LHA official and any employee or official of the Cuyahoga County government.
- PRR180 All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Metro Health System with respect to any proposal or discussion regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any communication between any ex officio LHA official and any employee or official of the Metro Health System.
- PRR181 All correspondence and communications – electronic or otherwise – between any Lakewood City employee or official and any employee or official of the Metro Health System with respect to any proposal or discussion during the period January 1, 2011 through the date of this request regarding the Metro Health System’s desire to open and/or operate a family health center in Lakewood. This request includes any communication between any ex officio LHA official and any employee or official of the Metro Health System.
- PRR182 All correspondence and communications – electronic or otherwise – between any Cleveland Clinic Foundation (“CCF”) employee or official and any Lakewood City employee or official with respect to any proposal submitted by the Metro Health System or any of its employees regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of CCF.
- PRR183 All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official regarding any proposal

submitted by the Metro Health System or any of its employees or officials with respect to the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of CCF and LHA.

- PRR184 All correspondence and communications – electronic or otherwise – between any CCF employee or official and any Lakewood City employee or official with respect to any proposal submitted by Surgical Development Partners regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of CCF and LHA.
- PRR185 All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official with respect to any proposal submitted by Surgical Development Partners regarding the Lakewood Hospital or its assets during 2014, 2015 and 2016. This request includes any correspondence or communication between any ex officio LHA official and any employee or official of CCF and LHA.
- PRR186 All correspondence and communications – electronic or otherwise – between any CCF official and any Lakewood City employee or official regarding any filing under the Hart-Scott-Rodino Act.
- PRR187 All correspondence and communications – electronic or otherwise – between any LHA official and any Lakewood City employee or official regarding any filing under the Hart-Scott-Rodino Act.
- PRR188 All records, notes, and communications – electronic or otherwise – reflecting legal bills issued to the City of Lakewood for legal services rendered by Law Director Kevin Butler (“Law Director Butler”) regarding the case of *Skindell v Madigan*, Cuyahoga C.P. Case No. CV-15-855961 (Judge Friedman) or *Skindell v Madigan*, 8th Dist. Case No. CA-15-103976.
- PRR189 All records, notes, and communications – electronic or otherwise – reflecting legal bills issued to the City of Lakewood for legal services rendered by Law Director Butler regarding the case of *Graham v. City of Lakewood*, Cuyahoga C.P. Case No. CV-15-846212 (Judge O’Donnell).
- PRR190 The complete personnel file of Bryce Sylvester.
- PRR191 The complete personnel file for Michele Nochta.
- PRR192 The complete personnel file for Dru Siley.
- PRR193 The complete personnel file for Colin McEwen
- PRR194 The complete personnel file for Jennifer Pae.

- PRR195 The electronic calendar of Dru Siley from January 1, 2013, through the date of the response.
- PRR196 All correspondence and communications – electronic or otherwise – to or from Dru Siley and any potential purchaser and/or developer of the Lakewood Hospital site January 1, 2013, through the date of the response.
- PRR197 The electronic calendar of Bruce Sylvester from January 1, 2013, through the date of the response.
- PRR198 All correspondence and communications – electronic or otherwise – to or from Bryce Sylvester and any potential purchaser and/or developer of the Lakewood Hospital site January 1, 2013, through the date of the response.
- PRR199 The electronic calendar of Rick Uldrick from March 1, 2015, through the date of the response.
- PRR200 The electronic calendar of Colin McEwen from January 1, 2013, through the date of the response.
- PRR201 The electronic calendar of Jennifer Pae from January 1, 2013, through the date of the response.
- PRR202 All correspondence and communications – electronic or otherwise – between the law firm of Thompson Hine (“Thompson Hine”), or its attorneys, and any LHA representative.
- PRR203 All correspondence and communications – electronic or otherwise – between Thompson Hine, or its attorneys, and any CCF representative concerning the City of Lakewood and/or Lakewood Hospital.
- PRR204 All correspondence and communications – electronic or otherwise – between Thompson Hine, or its attorneys, and Jim Wooley concerning the City of Lakewood and/or Lakewood Hospital.
- PRR205 All correspondence and communications – electronic or otherwise – between Law Director Butler and Jim Wooley concerning the City of Lakewood and/or Lakewood Hospital.
- PRR206 All correspondence and communications – electronic or otherwise – between Roberts Cahill and Jim Wooley concerning the City of Lakewood and/or Lakewood Hospital.
- PRR207 All correspondence and communications – electronic or otherwise – between Law Director Butler and any LHA official.

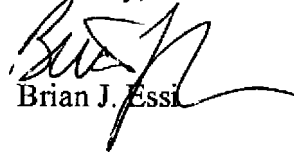
- PRR208 All correspondence and communications – electronic or otherwise – between David Anderson and Tom Gable.
- PRR209 A copy of the “written report” of the Select Committee referred to on page 5 of the minutes of LHA Special Meeting of the Board of Trustees, dated December 12, 2013.
- PRR210 All records, emails, notes, and communications – electronic or otherwise – of any statement presented at any LHA meeting regarding compliance with state or federal antitrust laws during the years 2013, 2014 and 2015.
- PRR211 All records, emails, notes, and communications – electronic or otherwise – of any notes made at any LHA meeting regarding compliance with the state or federal antitrust laws during the years 2013, 2014 and 2015.
- PRR212 All correspondence and communications – electronic or otherwise – regarding compliance with state or federal antitrust laws during the years 2013, 2014 and 2015.
- PRR213 All records, emails, notes, and communications – electronic or otherwise – documenting Rick Uldricks use of any City of Lakewood computer to access the websites LakewoodCitizen.com, Lakewood Citizen Facebook, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.
- PRR214 All correspondence and communications – electronic or otherwise – between Colin McEwen and any member of the Lakewood City Council from December 1, 2015, through December 22, 2015.
- PRR215 All records, emails, notes, and communications – electronic or otherwise – regarding the statements given by Colin McEwen to any member of the Lakewood City Council on December 6, 2015, and/or December 7, 2015.
- PRR216 All records, emails, notes, and communications – electronic or otherwise – regarding statements given by Eileen Korey, Mayor Mike Summers, and/or any member of the Lakewood City Council on December 6, 2015 and/or December 7, 2015.
- PRR217 The 2015 audited financial statements for LHA.
- PRR218 The first quarter 2016 financial statements for LHA.
- PRR219 All records, emails, notes, and communications – electronic or otherwise – documenting Jennifer Pae’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodoserver.com/forum.

- PRR220 All records, emails, notes, and communications – electronic or otherwise – documenting Kevin Butler’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodserver.com/forum.
- PRR221 All records, emails, notes, and communications – electronic or otherwise – documenting Colin McEwen’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodserver.com/forum.
- PRR222 All records, emails, notes, and communications – electronic or otherwise – documenting Bruce Sylvester’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodserver.com/forum.
- PRR223 All records, emails, notes, and communications – electronic or otherwise – documenting Mayor Summers’ use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodserver.com/forum.
- PRR224 All records, emails, notes, and communications – electronic or otherwise – documenting Dru Siley’s use of any City of Lakewood computer to access the websites Build Lakewood Facebook site, Save Lakewood Hospital Facebook site, LakewoodCitizen.com, Lakewood Citizen Facebook site, Lakewoodbuzz.com and/or Lakewoodserver.com/forum.
- PRR225 All records, emails, notes, and communications – electronic or otherwise – regarding any communication or interaction by and/or among Senator Mike Skindell, Metro Health System, any employee of Metro Health System, Mayor Summers and/or any of them from January 15, 2015 through the date of this request.

As I am requesting these public records in an electronic medium, no charge can be levied for the instant public records requests as a matter of law. If the requested records cannot be transmitted in an electronic format, you must provide an explanation as to why they cannot be transmitted in the preferred format.

Thank you for your kind attention to this request. Your cooperation is greatly appreciated.

Sincerely,


Brian J. Essi

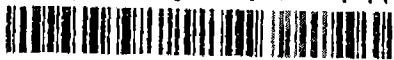
cc: Ohio Attorney General Mike DeWine, Public Records Unit
(mediation@ohioattorneygeneral.gov)
Ohio Auditor of State Dave Yost, Open Government Unit (ogu@auditor.state.oh.us)
Mike Summers, Mayor (mike.summers@lakewoodoh.net)
Dru Siley, Director of Planning and Development (dru.siley@lakewoodoh.net)
Sam O'Leary, President of Council (sam.oleary@lakewoodoh.net)
David W. Anderson, Vice-President of Council (david.anderson@lakewoodoh.net)
John Litten, Councilmember (john.litten@lakewoodoh.net)
Dan O'Malley, Councilmember (dan.omalley@lakewoodoh.net)
Thomas Bullock, Councilmember (tom.bullock@lakewoodoh.net)
Cindy Marx, Councilmember (ryan.nowlin@lakewoodoh.net)
Ryan Nowlin, Councilmember (ryan.nowlin@lakewoodoh.net)

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kevin Butler, Director of Law
City of Lakewood, Law Dept
12650 Vestrost Avenue
Lakewood Ohio 44107



9590 9403 0124 5077 6819 29

2. Article Number (Transfer from service label)

7016 0600 0000 0431 6965

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

J. ANDERSEN

C. Date of Delivery

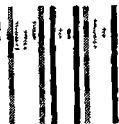
5-16

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☒ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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• Sender: Please print your name, address, and ZIP+4® in this box•

Brian Essi
15306 Edgewater
Lakewood, Ohio 44107

USPS TRACKING#



9590 9403 0124 5077 6819 29

BRIAN J. ESSI

216 346 3434
15306 Edgewater Drive
Lakewood, Ohio 44107
bjessi@sbcglobal.net

September 20, 2016

VIA CERTIFIED MAIL

Kevin M. Butler, Director of Law
City of Lakewood Law Department
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Public Records Requests -- PRR 226 to PRR 323

Dear Law Director Butler:

This communication serves as both a public records request and documentation of the repeated failure of the City of Lakewood to comply with the Ohio Public Records Act.

Over the past 19 months, I have submitted over 225 public records requests to your public office. Under most circumstances, you and the City of Lakewood have failed to provide prompt copies within a reasonable period of time. Those requests that have been answered routinely fail to comply with R.C. Chapter 149. As a result, I am copying the Ohio Attorney General's Office and the Ohio Auditor of the State to ensure that you and your public office properly respond to each of these requests in accordance with R.C. Chapter 149.

Provide the records responsive to each request to bjessi@sbcglobal.net in an electronic medium (i.e., WORD, PDF, XLS, etc.) and at no cost. **Where the request seeks correspondence or communications you must provide the actual correspondence or communication in an electronic medium.** Upon information and belief, the City of Lakewood has the practice of copying and pasting portions of a correspondence or communication rather than providing the actual document. Each request seeks, and you must provide, the actual correspondence or communication.

Please note that each item listed below is a distinct request, which is why they have been assigned separate PRR numbers. Your office must respond to each request separately and identify which records are responsive to each request – i.e., do not provide the records in a single disorganized fashion or “document dump” – as they have been assigned separate PRR numbers.

Please note that your standard, “We do not organize all records, documents, writings, drafts and notes based on _____” is not a valid denial of a public records request as the statute requires your public office to give me the opportunity to revise the request by informing me how the City of Lakewood ordinarily maintains and accesses its records. R.C. 149.43(B)(2). You have not done so. Moreover, the City of Lakewood cannot simply refuse to

produce public records because the requested public record is not kept within the walls of City Hall. For example, I am aware that the city employees and officials (including you as a prior city council member) use their personal and business email addresses to hold and create records while performing a public function for their public office and, as a result, those records are under the public office's jurisdiction and must be produced.

Where you believe the City of Lakewood has already responded to a specific records request, please identify the date that you believe your office responded to that request and provide a copy of the response, attaching the documents responsive to that request.

It cannot be overstated that the City of Lakewood must interpret the Ohio Public Records Act broadly in favor of disclosure in responding to these requests. Where the City of Lakewood denies any part of a public records request, the statute requires the City of Lakewood to give me the opportunity to revise the denied request, by informing me how the office ordinarily maintains and accesses its records. Thus, the Public Records Act expressly promotes cooperation to clarify and narrow requests that are ambiguous or overly broad, in order to craft a successful, revised request.

Where the City of Lakewood believes that any information in a public records request is exempt from the duty to permit public inspection or copying, the public office must either notify me of any redaction or make the redaction plainly visible. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the City of Lakewood shall make available all of the information within the public record that is not exempt. Therefore, your office may redact only that part of a record subject to an exception or other valid basis for withholding. In addition, if the City of Lakewood denies a request, in part or in whole, your public office must provide me with an explanation, including legal authority, setting forth why the request was denied.

As a failure to properly respond to the below public records requests may result in litigation, the City of Lakewood is put on notice that it has an absolute duty under both the Federal and Ohio Rules of Civil Procedure to preserve information that may be relevant to a lawsuit – including electronic information or data. A violation of this duty can result in severe sanctions, including the entry of a default judgment. Electronic information systems may automatically remove or delete information as routine functions of their operating system. While the Federal and Ohio Rules of Civil Procedure may prohibit a court from imposing sanctions if the electronically stored information is lost as a result of the routine, good-faith operation of the City of Lakewood's electronic information system, such a "safe haven" does not mean that the City of Lakewood is permitted to exploit this routine function to thwart its discovery obligations. To the contrary, whenever a duty to preserve information is imposed, as has been done now, intervention in the routine operation of an information system is an essential element of that obligation. By allowing the City of Lakewood to continue to destroy stored information that it is required to preserve, the City of Lakewood exposes itself to potentially severe sanctions. Simply stated, now that the City of Lakewood reasonably anticipates litigation it must suspend its routine document retention/destruction policy and put in place a "litigation hold" to ensure the preservation of relevant documents.

Below please find my public records requests, which your public office must respond to within a reasonable period of time. It is well settled that a 72-hour timeframe to respond would

constitute “without delay” and “with reasonable speed.” To that end, I expect a complete response within 72 hours. If the public records requests are not responded to within a reasonable period of time, I will have no choice but to seek mediation through the Ohio Attorney General’s public records mediation program or file an action in mandamus against your public office and/or yourself. The defined terms used below shall have the same meaning as set forth in my March 15, 2015 requests.

I have attached hereto the 89-page Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 which report is referenced in several of my public records requests below. Also attached are three emails from Kevin Butler to City Council dated June 22, 2015 at 12:22PM, July 10, 2015 at 2:39PM and July 17, 2015 at 3:37PM which emails are referenced in several of my public records requests below.

- PRR226 A copy of the “updated meeting schedule” referred to by Director of Law Kevin M. Butler (“Butler”) in his July 17, 2015 email to City Council at 3:37PM as being provided by Monique. Specifically, the “tightened” scheduled referred to under the heading “Master Agreement” in that email.
- PRR227 All records, correspondence, emails and communications – electronic or otherwise – from Butler to City Council members, or to any one City Council member, from March 1, 2015, through September 20, 2016, containing the term “communications strategy.”
- PRR228 All records, correspondence, emails and communications – electronic or otherwise – from Butler to City Council from January 14, 2015 through September 20, 2016 containing the subject “Re: Hospital matters: a general update”.
- PRR229 All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016 containing the term “communications strategy,” including those emails in response to or discussing Butlers’ emails to City Council dated June 22, 2015, at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.
- PRR230 All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016, which forwards an email containing the term “communications strategy,” including, but not limited to, those in response to, or discussing, Butler’s emails to City Council dated June 22, 2015, at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.
- PRR231 All records, correspondence, emails and communications – electronic or otherwise – from Butler to City Council members, or any one City Council member, from March 1, 2015, through September 20, 2016, containing the term “master agreement,” including, but not limited to, those similar to Butler’s emails

dated June 22, 2015, at 12:22PM, July 10, 2015 at 2:39PM, and July 17, 2015, at 3:37 PM.

- PRR232 All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through September 20, 2016, containing the term “master agreement,” including, but not limited to, those in response to or discussing Butler’s emails to City Council dated June 22, 2015 at 12:22PM, July 10, 2015, at 2:39PM, and July 17, 2015, at 3:37 PM.
- PRR233 All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through December 7, 2015, containing the term “draft definitive agreement.”
- PRR234 All records, correspondence, emails and communications – electronic or otherwise – from any City Council member to any other City Council member from March 1, 2015, through December 7, 2015, containing the term “new definitive agreement”
- PRR235 All email responses or replies to Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Butler’s email to City Council dated July 17, 2015, at 3:37 PM.
- PRR236 All email responses or replies to Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR237 All email responses or replies to Butler from any member of City Council from March 1, 2015, through December 7, 2015, which are responses or replies to Butler’s email to City Council dated June 22, 2015, at 12:22 PM.
- PRR238 All email responses or replies to Butler from any City of Lakewood employee which are responses or replies to Butler’s email to City Council dated July 17, 2015, at 3:37 PM.
- PRR239 All email responses or replies to Butler from any City of Lakewood employee which are responses or replies to Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR240 All email responses or replies to Butler from any City of Lakewood employee which are responses or replies to Butler’s email to City Council dated June 22, 2015, at 12:22 PM.
- PRR241 All records, correspondence, emails and communications – electronic or otherwise – containing the names of the “new people involved” in the “communications strategy” and/or “initiative” referred to in Butler’s email to City Council dated July 10, 2015, at 2:39 PM.

- PRR242 All records, correspondence, emails and communications – electronic or otherwise – containing the “emerging ideas” referred to in Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR243 All records, correspondence, emails and communications – electronic or otherwise containing, or referring to, Dru Siley’s “progress of visioning the hospital site” referred to in Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR244 All records, correspondence, emails and communications – electronic or otherwise – of “the proposal” referred to in Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR245 All records, correspondence, emails and communications – electronic or otherwise – containing the “follow-up email from [Butler] later that attaches the documents [Butler]” referenced in the second to last sentence of Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR246 All “documents [Butler] reference[d]” in Butler’s email to City Council dated July 10, 2015, at 2:39 PM.
- PRR247 All drafts of the “‘facts as we know them’ piece” which were “circulated” to City Council and referred to in Butler’s email to City Council July 17, 2015, at 3:37 PM.
- PRR248 All drafts of the document that were provided to City Council which document was subsequently placed on the web page: <http://www.onelakewood.com/frequently-asked-questions-about-lakewood-hospital/>. These drafts were specifically referred to in Butler’s email to City Council on July 17, 2015, at 3:37 PM under the heading “Communications Strategy”.
- PRR249 All drafts of the document that were provided to City Council which document was subsequently placed on the web page <http://www.onelakewood.com/frequently-asked-questions-about-lakewood-hospital/>
- PRR250 All drafts of the document that were provided to City Council which document was subsequently submitted by Butler to the Lakewood Observer and posted to the Lakewood Observer website: <http://lakewoodobserver.com/read/2015/09/15/qa-with-the-citys-law-director-about-lakewood-hospital>. These drafts were specifically referred to in Butler’s email to City Council July 17, 2015, at 3:37 PM.
- PRR251 All drafts of the document that was provided to City Council which document was subsequently submitted by Butler to the Lakewood Observer and posted to the Lakewood Observer website:

<http://lakewoodobserver.com/read/2015/09/15/qa-with-the-citys-law-director-about-lakewood-hospital>.

- PRR252 All records, emails, notes, and communications – electronic or otherwise – of any discussion among Council members, Butler and /or any city employee about the print or online version of the article on page 5 the Lakewood Observer dated September 15, 2015 http://media.lakewoodobserver.com/issue_pdfs/Observer_Vol_11_Issue_19.pdf and posted as follows:
<http://lakewoodobserver.com/read/2015/09/15/citys-rights-will-be-determined-by-the-court>.
- PRR253 All records of the “updates to the master agreement” referred to in Butler’s email to City Council dated June 22, 2015, at 12:22 PM.
- PRR254 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by David Anderson to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- PRR255 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Cindy Marx to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- PRR256 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Shawn Juris to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- PRR257 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Mary Madigan to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- PRR258 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Ryan Nowlin to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- PRR259 All records of the “strategic negotiating points” referred to in Butler’s email to City Council dated July 17, 2015, at 3:37 PM, which were provided by Tom Bullock to any member of City Council or city employee from July 17, 2015, to December 10, 2015.
- All records of the “strategic negotiating points” referred to in Butler’s email to email to City Council dated July 17, 2015, at 3:37 PM, which were provided by

Sam O'Leary to any member of City Council or city employee from July 17, 2015, to December 10, 2015.

- PRR260 All correspondence and communications – electronic or otherwise – from Robyn Smyers and/or any Thomson Hine attorney to Paul Calorusso and/or John Bodine from June 1, 2015, through December 1, 2015, limited to the services Huron Consulting LLC rendered to the City of Lakewood in 2015.
- PRR261 All correspondence and communications – electronic or otherwise – from John Bodine and/or Paul Calorusso to Robyn Smyers and/or any Thomson Hine attorney from June 1, 2015, through December 1, 2015, limited to the services Huron Consulting LLC services rendered to the City of Lakewood in 2015.
- PRR262 The electronic calendar of Butler from January 1, 2010, through the date of the response to this request.
- PRR263 The electronic calendar of Mayor Mike Summers (“Summers”) from January 1, 2010 through December 31, 2013.
- PRR264 All correspondence and communications – electronic or otherwise—to or from Butler and any member of City Council in the months of November and December 2015.
- PRR265 All records, emails, notes, and communications – electronic or otherwise – regarding Summers’ resignation as a trustee of Lakewood Hospital Association (“LHA”).
- PRR266 All records, emails, notes, and communications – electronic or otherwise – of Tom Bullock’s resignation or termination as a trustee of LHA.
- PRR267 All records, emails, notes, and communications – electronic or otherwise – of Mary Madigan’s resignation or termination as a trustee of LHA.
- PRR268 All records, emails, notes, and communications – electronic or otherwise – regarding Summers’ Thursday, October 22, 2015. 4:15PM - 4:45PM private meeting referred to on his calendar.
- PRR269 All records, emails, notes, and communications – electronic or otherwise – of Summers’ Thursday, October 22, 2015 5:30PM - 7:00PM private meeting referred to on his calendar.
- PRR270 All records, emails, notes, minutes and communications of any meeting or discussion of any “communications strategy” by or among members of City Council from March 1, 2015, though the date of your response to this request.
- PRR271 The records of training provided to Dan O'Malley as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.

- PRR272 The records of training provided to Shawn Juris as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR273 The records of training provided to Cindy Marx as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR274 The records of training provided to David Anderson as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.
- PRR275 The records of training provided to Sam O'Leary as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR276 The records of training provided to John Litton as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR277 The records of training provided to Ryan Nowlin as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR278 The records of training provided to Mary Madigan as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.
- PRR279 The records of training provided to Butler as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to local office receive three hours of Public Records training for each term of office.
- PRR280 The records of training provided to Tom Bullock as a member of City Council pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office.
- PRR281 The records of training provided to Summers as a member of City Council and as Mayor of Lakewood pursuant to R.C. 109.43(B) and 149.43(E)(1) that require that officials elected to statewide or local office receive three hours of Public Records training for each term of office
- PRR282 Records of certifications by the Ohio Attorney General of the training received R.C. 109.43(B) and 149.43(E)(1) for City of Lakewood elected officials from January 1, 2009 through September, 2016.

- PRR283 Records of the City of Lakewood income tax collections for January 1, 2015 through August 31, 2015.
- PRR284 Records of the City of Lakewood income tax collections for January 1, 2016, through August 31, 2016.
- PRR285 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.
- PRR286 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations created by or provided to any public relations firm that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.
- PRR287 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations used by any city employee or elected city official for any purpose that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.
- PRR288 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations created by or used by City employees Jenn Pae and/or Colin McEwen for any purpose that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement.
- PRR289 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculation created by or used by Colin McEwen or Barbara Paynter for a Press Release issued on January 15, 2015, about Lakewood Hospital that estimate or establish the economic and/or financial value of the Letter of Intent.
- PRR290 All records, emails, notes, and communications – electronic or otherwise – of any communication between any city employee or elected city official that concerns the estimation of the economic and/or financial value of the Letter of Intent or the Master Agreement and any economic development benefits from those transactions.
- PRR291 All records, emails, notes, and communications – electronic or otherwise – including spreadsheets or calculations created or used by any city employee limited to the economic development functions or department of the City that estimate or establish the economic and/or financial value of the Letter of Intent or the Master Agreement and any economic development benefits from such transactions.
- PRR292 All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to any matter related to the Ohio Ethics Commission limited to

Lakewood Hospital, Lakewood Hospital Association, Lakewood Hospital Foundation, the Letter of Intent, and/or the Master Agreement.

- PRR293 All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to any matter related to the Ohio Auditor of State limited to Lakewood Hospital, Lakewood Hospital Association, Lakewood Hospital Foundations, the Letter of Intent, and/or the Master Agreement.
- PRR294 All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to any legal complaints, legal process or legal action to be taken or actually taken against any person within the last year. This request is limited to legal actions where the City of Lakewood is not a party.
- PRR295 All records, emails, notes, and communications – electronic or otherwise – created by or used by any City employee or elected city official that describe, discuss or refer to the case of *Uldricks v. O'Bryan*, Cuyahoga No. CV-16-864146 (Judge Michael P. Donnelly). This request is limited to legal actions where the City of Lakewood is not a party.
- PRR296 All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to any Cuyahoga County employee or Cuyahoga County elected official regarding the Cleveland Clinic, the Lakewood Hospital Foundation or the Lakewood Hospital Foundation from January 1, 2014, through September 16, 2016.
- PRR297 All records that substantiate the detail of the \$11,842,752 of 2015 “Operating Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf
- PRR298 All records that substantiate the detail of the \$5,459,955 of 2014 “Operating Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf
- PRR299 All records that substantiate the detail of the \$5,553,183 of 2015 “Capital Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf

- PRR300 All records that substantiate the detail of the \$1,215,014 of 2014 “Capital Grants and Contributions” on page 12 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR301 All records that substantiate the \$3,286,870 increase that was “due to capital contributions from the master agreement with Lakewood Hospital Association” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR302 All records that substantiate the amount of “capital contributions from the master agreement with Lakewood Hospital Association” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR303 All records that substantiate the \$6,382,797 increase that was “due to receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of lease agreements” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR304 All records that substantiate the “receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of lease agreements” referred to on page 14 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR305 All records that substantiate the receipt of the “\$6.6 million as recognition of early termination of the 1996 lease” as an asset “transferred to the City from (LHA) on December 22, 2015” referred to on page 19 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015: https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.

- PRR306 All records that substantiate the detail of that portion of the \$11,770,174 of revenues of the Lakewood Hospital Fund that were “due to receipts from the sale of Lakewood Hospital to Cleveland Clinic as recognition of early termination of the 1996 lease agreements” referred to on page 16 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR307 All records that substantiate that “[o]n December 22, 2015 the city received title from LHA for the medical office building located at 14601 Detroit Avenue, the parking garage located at 1422 Belle Avenue and the Community Health Center located at 1450 Belle Avenue” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR308 All records that substantiate that “LHA returned control of seven residential properties on Belle Avenue and St. Charles Avenue to the City and these properties are recorded as an asset held for resale at year end.” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR309 All title reports and title insurance policies created or received in 2015 or 2016 for the medical office building located at 14601 Detroit Avenue, the parking garage located at 1422 Belle Avenue and the Community Health Center located at 1450 Belle Avenue”.
- PRR310 All title reports or title insurance policies created or received in 2015 or 2016 evidencing “LHA returned control of seven residential properties on Belle Avenue and St. Charles Avenue to the City and these properties are recorded as an asset held for resale at year end.” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR311 All records that substantiate that “the City will retain ownership of the existing Lakewood Hospital site and all other property currently leased to LHA” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015 https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR312 All records that substantiate that the “existing Lakewood Hospital site and all other property currently leased to LHA” referred to on page 88 of the Independent Auditor’s Report as part of the City of Lakewood, Ohio Comprehensive Annual

Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf is listed as an asset on the Independent Auditor's Report in 2014 and 2015.

- PRR313 All records that substantiate the \$9,051,162 of "Actual" "Charges for Services" referred to on page 88 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR314 All records that substantiate or reconcile the discrepancy between the \$9,070,118 of "Total Revenues" referred to on page 88 of the Independent Auditor's Report and the total revenues of \$11,770,174 referred to on page 16 of the Independent Auditor's Report.
- PRR315 The list or schedule of property substantiating the \$6,217,842 of "Land" on page 18 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR316 The list or schedule of property substantiating the total 2015 "Land Improvements" of \$6,240,503 on page 18 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR317 The list or schedule of property substantiating the total 2014 "Land Improvements" of \$3,347,296 on page 18 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR318 The list or schedule of property substantiating the total 2015 "Buildings and Improvements" of \$24,914,353 on page 18 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015
https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.
- PRR319 The list or schedule of property substantiating the total 2014 "Buildings and Improvements" of \$23,374,641 on page 18 of the Independent Auditor's report as part of the City of Lakewood, Ohio Comprehensive Annual Financial Report for the Year Ending December 31, 2015

https://ohioauditor.gov/auditsearch/Reports/2016/City_Lakewood_15-Cuyahoga.pdf.

- PRR320 All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to Richard Uldricks from May 13, 2016 to September 20, 2016.
- PRR321 All records, emails, notes, and communications – electronic or otherwise – from any city employee or elected city official to Richard Uldricks regarding the substance or the content of the following post: <http://www.lakewoodcitizen.com/?s=nastiness>.
- PRR322 All records of use of public computers by Richard Uldricks.
- PRR323 All records of use of public computers by Richard Uldricks to create and post the following: <http://www.lakewoodcitizen.com/?s=nastiness>.

Thank you for your kind attention to this request. Your cooperation is greatly appreciated.

Sincerely,



Brian J. Essi

cc: Ohio Attorney General Mike DeWine, Public Records Unit
(mediation@ohioattorneygeneral.gov)
Ohio Auditor of State Dave Yost, Open Government Unit (ogu@auditor.state.oh.us)
Mike Summers, Mayor (mike.summers@lakewoodoh.net)
Dru Siley, Director of Planning and Development (dru.siley@lakewoodoh.net)
Sam O'Leary, President of Council (sam.oleary@lakewoodoh.net)
David W. Anderson, Vice-President of Council (david.anderson@lakewoodoh.net)
John Litten, Councilmember (john.litten@lakewoodoh.net)
Dan O'Malley, Councilmember (dan.omalley@lakewoodoh.net)
Thomas Bullock, Councilmember (tom.bullock@lakewoodoh.net)
Cindy Marx, Councilmember (ryan.nowlin@lakewoodoh.net)
Ryan Nowlin, Councilmember (ryan.nowlin@lakewoodoh.net)

RECEIPT

Received by Hand Deliver from Brian Essi.

1. Public Records Request Letter referencing PRR 226 to PRR 323 with two attachments.

By: Amy Ardel

Dated: September 20, 2016.

7016 0600 0000 0429 4812

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☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$6.80
Total Postage and Fees	\$12.80

Sent To Kevin Boller

Street and Apt. No., or PO Box No.
12650 Detroit

City, State, ZIP+4®
Lakewood, Ohio 44107

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

0071 08

09/20/2016

RECEIPT

Received by Hand Deliver from Brian Essi.

1. Public Records Request Letter referencing PRR 313 to PRR 314 dated September 28, 2016.


By: _____

Dated: September 28, 2016.