

**REMEMBER that the hotline team can provide some guidance on FOIA appeals. In cases where the 15 minute hotline limit would be exceeded, we offer additional assistance at highly discounted rates.**

**Re: APPEAL Regarding \_\_\_\_\_** (you must use the word APPEAL in the letter)

[Put your particular facts in at the beginning: Describe what you asked for and the response you received.]

I am writing because your response does not meet the requirements imposed on public bodies and/or we believe that the exemptions you cite are not applicable.

As a starting point, your response must cite which of the exemptions listed in Section 13 you are applying. And then even if the exemptions which you rely upon are applicable, you must justify how the exemption applies to the particular document. Your response does not meet the requirements laid down by the Supreme Court in the case of *The Evening News Association v. City of Troy*, 417 Mich 481 (1983), which says that:

Exemptions under the FOIA are to be interpreted narrowly. That means that disclosure is favored.

The public body is to separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

Detailed affidavits describing the matters withheld must be supplied by the agency.

Justification of exemption must be more than "conclusory", i.e. simple repetition of statutory language. A bill of particulars is in order. Justification must indicate factually how a particular document, or category of documents, interferes with law enforcement proceeding.

The mere showing of a direct relationship between records sought and an investigation is inadequate. [use this only if referring to the law enforcement investigation exemption]

The Supreme Court affirmed *Evening News* in another case stating clearly that the burden of proof in these circumstances is upon you, not the newspaper, to show that the information is exempt. *Federated Publications, Inc. v. City of Lansing*.

[optional language where talking about the privacy exemption] And where the information concerns a public employee, the Supreme Court has held that aspects of public employment are not personal, but public and must be made available under FOIA. *Bradley v. Saranac Community Schools Bd of Ed.*, 455 Mich 285; 565 NW2d 650 (1997).

In addition, Section 14 of the FOIA requires that you separate exempt from non-exempt information and release the non-exempt information. It is difficult to believe that everything in your possession in connection with this matter is exempt.

Lastly, we note that the Michigan Freedom of Information Act is a pro-disclosure statute.

We therefore ask that you review the request of the \_\_\_\_\_ in light of the law and respond accordingly.

Very truly yours,