



GLADSTONE CITY COMMISSION SPECIAL MEETING

City Hall Chambers – 1100 Delta Avenue
April 07, 2025
6:00 PM

AGENDA

CALL TO ORDER

1. Roll Call - City Commission
2. Roll Call - Housing Commission

PUBLIC COMMENT

CONFLICTS OF INTEREST

NEW BUSINESS

3. Freedom of Information Act Appeal of Denial- Mr. Gary Kovalainen
4. City of Gladstone Joint Meeting w/ Gladstone Housing Commission – Presentation by Housing Commission of Proposed Housing Project

ADJOURNMENT

The City of Gladstone will provide all necessary, reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to individuals with disabilities at the meeting/hearing upon five days notice to the City of Gladstone. Individuals with disabilities requiring auxiliary aids or services should contact the City of Gladstone by writing or calling City Hall at (906) 428-2311.

Posted: 04-02-2025

Kimberly Berry, MiPMC
906-428-2311
kberry@gladstonemi.gov

RULES FOR PUBLIC COMMENT/ PUBLIC HEARINGS

(Excerpt from City Commission Rules of Procedure Adopted: 11-25-2019)

A. Public Comment / Public Hearings

At regular and special meetings of the commission, individuals wishing to be heard may address the commission during the public comment/public hearing periods as set forth in the agenda under the following rules:

1. Each speaker shall state name and address for the record.
2. Each speaker is limited to three (3) minutes of comment unless the presiding officer decides more time is necessary

3. Each speaker shall try to be concise and refrain from repeating comments already addressed by the commission.
4. Speakers who do not cease speaking when asked to do so will be deemed out of order and will not be allowed to address the commission again for the remainder of the meeting; continued disruption will warrant removal from the meeting.
5. The commission shall not decide issues that arise during public comment.
6. Speakers should address the commission through the presiding officer.
7. Commissioners and staff will not debate with the public.
8. Speakers will not verbally attack City Commissioners, City Staff or members of the public attending the meeting. Any such behavior will not be tolerated and any person presenting in this manner will be warned by the Mayor and shall be removed by Public Safety for noncompliance.
9. No vulgar or obscene language will be used by the speakers.
10. Any information the speaker wants to distribute to the Commission must first ask the Chair (Mayor) if they may present the Commission written comments at the meeting.
11. Speakers may not ask questions of the board during this time as the Commission or Staff will not address them during this public comment period.

GLADSTONE



City of Gladstone, MI

1100 Delta Avenue
Gladstone, MI 49837
www.gladstonemi.gov

**MEETING TYPE
STAFF REPORT**

Agenda Date: 04-07-2025

**Eric Buckman, City
Manager:**

Department: City Commission

Department Head Name:

Presenter: Kim Berry

Kim Berry, City Clerk:

This form and any background material must be approved by the City Manager, then delivered to the City Clerk by 4:00 PM the Tuesday prior to the Commission Meeting.

AGENDA ITEM TITLE: Freedom of Information Act Appeal – Gary Kovala

City of Gladstone FOIA Policies and Guidelines Section 8 Appeal of a Denial of Public Record (page 8) located on City website

The City Commission must review the denial to disclose public records made by the FOIA Coordinator and make one of the following decisions and respond in writing:

- Reversing the disclosure denial
- Upholding the disclosure denial
- Reverse the disclosure denial in part and uphold the disclosure in part
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the City of Gladstone Commission shall respond to the written appeal. The City of Gladstone Commission shall not issue more than 1 notice of extension for a particular written appeal.

BACKGROUND:

The City received a FOIA request from Mr. Kovala regarding public disclosure of personal information in the City of Gladstone’s Board of Review (BOR) minutes online. See FOIA request dated 03-07-2025. This request was denied see City of Gladstone denial letter dated 03-17-2025.

The Freedom of Information Act 442 of 1976 is an Act to provide for public access to certain public records of public bodies. Upon consultation with City Attorney Steve Mann, a denial letter was issued as Mr. Kovala’s request does not request any records, rather, he is requesting that public records be altered, FOIA does not provide for such action.

FISCAL EFFECT:

Staff time

SUPPORTING DOCUMENTATION:

- Email Mr. Kovala’s Appeal dated 03-21-2025 6:06 PM
- Email City FOIA Denial Letter dated 03-17-2025
- Email Mr. Kovala’s FOIA Request dated 03-07-2025
- Communication Timeline w/ Mr. Kovala
- Freedom of Information Act 442 of 1976

RECOMMENDATION:

Motion to uphold the denial response by City Clerk Kimberly Berry dated March 17, 2025 as the FOIA request was not for public records.

From: [Gary Kovalainen](#)
To: [Eric Buckman](#)
Cc: [Joe Thompson](#); [Kim Berry](#); [Janice Frizzell](#); [Brad Mantela](#)
Subject: Correction: FOIA Appeal Submission - March 21, 2025
Date: Friday, March 21, 2025 6:06:07 PM
Attachments: [FREEDOM OF INFORMATION APPEAL \(Final Draft\).pdf](#)

Dear Mr. Buckman,
I apologize for the error—I accidentally sent an incorrect file earlier today, a rough draft with extraneous notes. Please disregard that submission. Attached is the correct, final version of my FOIA appeal, dated March 21, 2025. Thank you for your understanding.

Sincerely,
Gary Kovala
1108 Lake Shore Dr.
Gladstone, MI 49837
Email: gkovalainen@gmail.com

From: [Gary Kovalainen](#)
To: [Eric Buckman](#)
Cc: [Joe Thompson](#); [Kim Berry](#); [Janice Frizzell](#); [Brad Mantela](#)
Subject: FOIA Appeal – Redaction of PII from BOR Minutes (FOIA Request 2025-07)
Date: Friday, March 21, 2025 2:44:39 PM
Attachments: [Feb 21 2025 FREEDOM OF INFORMATION APPEAL.pdf](#)

Dear Mr. Buckman,

I am writing to formally submit my FOIA appeal regarding City Clerk Kim Berry’s March 17, 2025, denial of my March 7, 2025, request for the redaction of my personal identifying information (PII) from the City of Gladstone’s online Board of Review (BOR) minutes.

Attached is my appeal letter, submitted under **MCL 15.240(1)(a)**, detailing the legal and factual basis for reversing the denial. I respectfully request that the City reverse its denial and take the necessary steps to protect my privacy, as outlined in the appeal. If the City does not reverse the denial within **10 business days (by April 4, 2025, per MCL 15.240(2))**, I may pursue all legal remedies available to me.

Please confirm receipt of this email and attachment by reply to gkovalainen@gmail.com. Should you have any questions or require additional information, feel free to contact me at gkovalainen@gmail.com or **906-420-1666**.

Thank you for your attention to this matter.

Sincerely,
Gary Kovala
1108 Lake Shore Dr.
Gladstone, MI 49837
Email: gkovalainen@gmail.com
Phone: 906-420-1666

FREEDOM OF INFORMATION APPEAL
March 21, 2025

To: Eric Buckman, City Manager
 City of Gladstone
 1100 Delta Avenue
 Gladstone, MI 49837
Email: ebuckman@gladstonemi.gov

Dear Mr. Buckman,

Under **MCL 15.240(1)(a)**, I formally appeal City Clerk Kim Berry’s March 17, 2025, denial of my FOIA request (submitted March 7, 2025, titled “Formal FOIA Request: Redact PII from Online BOR Minutes”). My request sought:

1. **Redaction of my personal identifying information (PII)**—specifically, my name (Gary Kovala), address (1108 Lake Shore Dr.), and disabled veteran tax exemption status— from the City of Gladstone’s online Board of Review (BOR) minutes for the years 2020-2024, as permitted under **MCL 15.243(1)(a)**.
2. Provide a **written explanation of the specific legal authority—under FOIA or otherwise—requiring or permitting the City to publish my PII online in unredacted form.**

City Clerk Kim Berry’s denial, which claims that redaction “does not identify records” and that FOIA does not provide for such actions, is legally flawed and fails to address the privacy risks posed by the public disclosure of my PII.

Background

Since August 2024, I have repeatedly raised concerns about the public disclosure of my PII in the City’s online BOR minutes:

- **August 21, 2024:** I informed Assessor Janice Frizzell that my PII had been publicly available online since 2020. The Michigan Municipal League confirmed that such disclosure is rare and unnecessary.
- **February 3, 2025:** City Clerk Kim Berry acknowledged that redaction was possible but refused to act, citing the city attorney’s opinion that no confidentiality applies under **MCL 211.7b**.
- **March 7, 2025:** I submitted a formal FOIA request, which was denied on March 17, 2025.

Notably, in her March 17, 2025, response, City Clerk Kim Berry misspelled my last name as “**Kovalainen**” instead of “**Kovala**.” This error, while seemingly minor, reflects a lack of

attention to detail and further underscores the City's failure to address my concerns with the care and seriousness they warrant.

Errors in the Denial

1. Privacy Risks

The public disclosure of my PII—including my name, address, and disabled veteran status—exposes me to significant risks, including identity theft, stalking, doxxing, swatting, public shaming, and emotional distress. These risks extend to the 36 other veterans in Gladstone whose PII is similarly disclosed.

Despite my efforts to protect my privacy (e.g., using services like DeleteMe), the City's continued publication of my PII since 2020 undermines these protections. If any harm comes to me or another veteran as a result of this disclosure, the City of Gladstone could be held accountable, given my repeated efforts to address this issue.

2. Legal Basis for Redaction

City Clerk Kim Berry's claim that redaction constitutes "altering" public records is incorrect. **MCL 15.243(1)(a)** explicitly allows for the withholding of information if its disclosure would constitute an unwarranted invasion of privacy. Additionally, **MCL 15.244(1)** permits the redaction of exempt information from public records.

The city attorney's opinion that no confidentiality applies under **MCL 211.7b** is misguided. While **MCL 211.7b** governs the disabled veterans' property tax exemption, it does not override the privacy protections provided under FOIA. Specifically:

- **MCL 15.243(1)(a)** allows public bodies to exempt records from disclosure if they constitute an unwarranted invasion of privacy. This provision applies regardless of whether **MCL 211.7b** explicitly mandates confidentiality.
- The city attorney's reliance on **MCL 211.7b** ignores the balancing test established by Michigan courts, which requires public bodies to weigh the public interest in disclosure against the privacy interests of individuals. This balancing test is rooted in **MCL 15.243(1)(a)** and has been reinforced by case law, including **Swickard v. Wayne County Medical Examiner (1981)**, **State News v. Michigan State University (1989)**, and **Mager v. Department of State Police (2000)**. In this case, the public interest in transparency is fully served by disclosing the total amount of tax exemptions granted, without exposing the names, addresses, and disability status of individual veterans.

Furthermore, the **Department of Veterans Affairs (VA)**, a federal agency, provides a strong example of how veterans' PII should be protected. Under the **Privacy Act of 1974** and **HIPAA**, the VA strictly safeguards veterans' sensitive information, including disability ratings, and does not disclose such information without consent. While the VA is governed by federal law, its

practices reflect a widely recognized commitment to protecting veterans' privacy, which aligns with the principles underlying Michigan's FOIA privacy exemptions.

Case law supports this position:

- **Swickard v. Wayne Med. Exam'r (1981)**: The court held that disclosure of information that is offensive and serves no public interest is not required.
- **State News v. MSU (1989)**: The court emphasized the need to balance public interest with privacy concerns.
- **Mager v. State Police (2000)**: The court affirmed that public bodies have discretion to redact information to protect privacy.

The City's refusal to redact my PII, despite the minimal effort required, is arbitrary and capricious.

3. Misapplication of FOIA

City Clerk Kim Berry's assertion that my request does not identify specific records is baseless. The BOR minutes for 2020-2024 are the records in question, and redaction is not equivalent to "altering" them.

Furthermore, her reliance on **MCL 15.233(4)** is misplaced. My request for a written explanation of the legal basis for publishing my PII is not a "compilation, summary, or report," but a demand for the City to justify its actions. Moreover, **MCL 15.235(5)(b)** mandates that any denial include "an explanation of the basis" for the decision, which her vague response fails to provide—itsself a FOIA violation.

The City's policy of publishing unredacted PII online is a choice, not a legal requirement. The Michigan Attorney General's Opinion No. 7301 (2011) clarifies that neither FOIA nor the Open Meetings Act mandates the online publication of PII.

Clarifying Redaction vs. Alteration

In her denial, Clerk Berry states, "**you are requesting that public records be altered, which [FOIA] does not provide for,**" incorrectly equating redaction with alteration. Under Michigan FOIA, these are legally distinct:

- **Redaction**: The removal or withholding of exempt information, expressly authorized by **MCL 15.243(1)(a)** (e.g., personal privacy exemptions) and **MCL 15.244(1)** (separation of exempt and non-exempt material). This process preserves the record's substance while protecting legitimate interests.
- **Alteration**: The modification or falsification of a record's content, which FOIA does not permit and which undermines the record's integrity.

The City's refusal to redact my PII based on this misinterpretation is legally flawed. Redaction is a standard practice under FOIA to protect sensitive information, and it does not constitute "alteration" of public records.

Omission of PII in Other Cities

Unlike Gladstone, most Michigan cities (e.g., Marquette, Ann Arbor) omit veterans' PII from BOR minutes, balancing transparency with privacy. If redaction is deemed unfeasible, the City could simply remove the records from its website and store them locally—as was standard pre-internet—limiting online exposure while preserving access.

Requests

I respectfully request that the City:

1. **Redact** my PII—specifically, my name, address, and disabled veteran tax exemption status—from all online BOR minutes for the years 2020-2024, as permitted under **MCL 15.243(1)(a)**.
 2. Provide a **written explanation of the specific legal authority—under FOIA or otherwise—requiring or permitting the City to publish my PII online in unredacted form.**
 3. Adopt a **policy to omit** sensitive PII from future BOR minutes, aligning with the practices of other Michigan cities and ensuring compliance with **MCL 15.243(1)(a)**.
 4. **Remove the records from the City's website** and store them locally, as was done in the pre-internet era, if redaction is deemed unfeasible. This would prevent the records from being easily searchable online while still making them accessible to those with a legitimate need.
-

Conclusion

The City's refusal to redact or omit my PII from public records violates Michigan's FOIA and privacy laws. By conflating redaction with alteration and ignoring the standard practices of other Michigan cities, the City has failed to balance transparency with privacy, exposing me and other veterans to significant risks.

I urge the City to take immediate action to correct this violation by redacting my PII from existing records, providing a legal basis for its actions, and adopting a policy to omit sensitive PII from future records. If the City fails to reverse this denial within **10 business days (by April 4, 2025, per MCL 15.240(2))**, I may pursue all legal remedies, including judicial review in **Delta County Circuit Court and other options available to me.**

Sincerely,
Gary Kovala
1108 Lake Shore Dr.
Gladstone, MI 49837
Email: gkovalainen@gmail.com

From: [Kim Berry](#)
To: [Gary Kovalainen](#)
Cc: [Eric Buckman](#); [Joe Thompson](#); [Janice Frizzell](#)
Subject: RE: Formal FOIA Request: Redact PII from Online BOR Minutes
Date: Monday, March 17, 2025 12:01:00 PM
Attachments: [FOIA Request 2025-07 Response Letter 03-17-2025.pdf](#)
Importance: High

Mr. Kovalainen,

Please find attached the response to your FOIA request below, identified by the City of Gladstone as FOIA Request 2025-07.

Kimberly Berry
 Gladstone City Clerk, MiPMC
 906-428-2311 Option 2 Extension 6
 kberry@gladstonemi.gov

From: Gary Kovalainen <gkovalainen@gmail.com>
Sent: Friday, March 7, 2025 7:06 AM
To: Kim Berry <KBerry@gladstonemi.gov>
Subject: Formal FOIA Request: Redact PII from Online BOR Minutes

FOIA Request
To: City Clerk Kim Berry, City of Gladstone (kberry@gladstonemi.gov) CC: City Manager Eric Buckman (ebuckman@gladstonemi.gov), Mayor Joe Thompson (jthompson@gladstonemi.gov), Assessor Janice Frizzell (jfrizzell@gladstonemi.org) Date: March 7, 2025
Dear Ms. Berry,
I am submitting this formal request under the Michigan Freedom of Information Act (MCL 15.231 et seq.) to address the public disclosure of my personal identifying information (PII) in the City of Gladstone’s Board of Review (BOR) minutes online.
These minutes (e.g., 2020-2024) include my name (Gary Kovala), address (1108 Lake Shore Dr.), and disabled veteran tax exemption status, posing privacy risks. I request:
<ol style="list-style-type: none"> Redaction of my name, address, and disability tax status from all online BOR minutes (2020-2024), as permitted under MCL 15.243(1)(a).

2. A written explanation of the legal basis for publishing this PII.

I have requested this since August 2024, including on October 21, 2024, but no action has been taken. Please respond within 5 business days per MCL 15.235, or provide notice of an extension. Contact me at gkovalainen@gmail.com

Sincerely,
Gary Kovala



"Year Round Playground"

CITY OF GLADSTONE, MICHIGAN

CITY HALL, 1100 DELTA AVENUE

GLADSTONE, MI 49837

PHONE: 906-428-2311
FAX: 906-428-3122
www.gladstonemi.gov

Item 3.

March 17, 2025

VIA ELECTRONIC MAIL: GKOVALAINEN@GMAIL.COM

Mr. Gary Kovalainen
1108 Lake Shore Drive
Gladstone, MI. 49837

Re: FOIA Request 2025-07

Mr. Kovalainen,

The City of Gladstone (the "City") is writing in response to your Freedom of Information Act ("FOIA") request transmitted via electronic mail, dated March 7, 2025, and therefore, pursuant to MCL 15.235(1), deemed received on March 10, 2025 (one business day after the electronic transmission).

Your request was for the records identified as follows:

FOIA Request

To: City Clerk Kim Berry, City of Gladstone (kberry@gladstonemi.gov)
CC: City Manager Eric Buckman (ebuckman@gladstonemi.gov), Mayor Joe Thompson (jthompson@gladstonemi.gov), Assessor Janice Frizzell (jfrizzell@gladstonemi.org)
Date: March 7, 2025

Dear Ms. Berry,

I am submitting this formal request under the Michigan Freedom of Information Act (MCL 15.231 et seq.) to address the public disclosure of my personal identifying information (PII) in the City of Gladstone's Board of Review (BOR) minutes online.

These minutes (e.g., 2020-2024) include my name (Gary Kovala), address (1108 Lake Shore Dr.), and disabled veteran tax exemption status, posing privacy risks. I request:

1. Redaction of my name, address, and disability tax status from all online BOR minutes (2020-2024), as permitted under MCL 15.243(1)(a).
2. A written explanation of the legal basis for publishing this PII.

I have requested this since August 2024, including on October 21, 2024, but no action has been taken. Please respond within 5 business days per MCL 15.235, or provide notice of an extension. Contact me at gkovalainen@gmail.com

 A WPPI Energy community

 The City of Gladstone is an equal opportunity employer and provider.

Sincerely,
Gary Kovala

1. Your request is hereby denied as your request does not identify any records you are requesting, rather you are requesting that public records be altered, which the Freedom of Information Act does not provide for such action.
2. Your request is further denied per MCL15.233 Sec.3(4) the act does not require a public body to make a compilation, summary, or report of information.


Under the FOIA, if a request for a public record is denied for any reason, the public body must provide written notice of denial and include a full explanation of the requesting person's right to:

- 1) submit to the City of Gladstone Commission (by filing with the office of the City of Gladstone Manager) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial,
- 2) seek judicial review in circuit court within 180 days of the denial of the request under Section 10 of the FOIA,
- 3) receive attorneys' fees and damages as provided in Section 10 of the FOIA if, after judicial review, the circuit court determines that the public body has not complied with Section 5 of the FOIA and orders disclosure of all or a portion of the public record,
- 4) receive \$1,000 in punitive damages if the court determines under Section 10 of the FOIA that the public body acted arbitrarily or capriciously by refusal or delay in disclosing or providing a public record. In addition, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury.

Within ten (10) business days after receiving a request for an appeal, the City of Gladstone Commission shall a) reverse the denial; b) issue a written notice upholding the denial; c) reverse the denial in part and issue a written notice upholding the denial in part; d) issue a notice extending by not more than ten (10) business days the time to decide the appeal. This letter also serves as the written notice of your rights under FOIA.

The City's FOIA Procedures and Guidelines and Public Written Summary are maintained on its website and may be accessed at: <https://www.gladstonemi.gov/media/2776>

A copy of this request will be kept on file for no less than one (1) year. Should you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kimberly Berry
FOIA Coordinator

FREEDOM OF INFORMATION ACT
Act 442 of 1976

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

The People of the State of Michigan enact:

15.231 Short title; public policy.

Sec. 1. (1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 1997, Act 6, Imd. Eff. May 16, 1997.

Popular name: Act 442

Popular name: FOIA

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Cybersecurity assessment" means an investigation undertaken by a person, governmental body, or other entity to identify vulnerabilities in cybersecurity plans.

(b) "Cybersecurity incident" includes, but is not limited to, a computer network intrusion or attempted intrusion; a breach of primary computer network controls; unauthorized access to programs, data, or information contained in a computer system; or actions by a third party that materially affect component performance or, because of impact to component systems, prevent normal computer system activities.

(c) "Cybersecurity plan" includes, but is not limited to, information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software, or response to cybersecurity incidents.

(d) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(e) "Field name" means the label or identification of an element of a computer database that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(f) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

(ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(g) "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

(h) "Public body" means any of the following:

(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(ii) An agency, board, commission, or council in the legislative branch of the state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(iv) Any other body that is created by state or local authority or is primarily funded by or through state or

local authority, except that the judiciary, including the office of the county clerk and its employees when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(i) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(i) Those that are exempt from disclosure under section 13.

(ii) All public records that are not exempt from disclosure under section 13 and that are subject to disclosure under this act.

(j) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

(k) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(i) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(ii) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(l) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, hard drives, solid state storage components, or other means of recording or retaining meaningful content.

(m) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1994, Act 131, Imd. Eff. May 19, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 68, Eff. June 17, 2018.

Popular name: Act 442

Popular name: FOIA

15.233 Public records; request requirements; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3. (1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body. A request from a person, other than an individual who qualifies as indigent under section 4(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription is valid for up to 6 months, at the request of the subscriber, and is renewable. An employee of a public body who receives a request for a public record shall promptly forward that request to the freedom of information act coordinator.

(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

(4) This act does not require a public body to make a compilation, summary, or report of information, except as required in section 11.

(5) This act does not require a public body to create a new public record, except as required in section 11,

and to the extent required by this act for the furnishing of copies, or edited copies pursuant to section 14(1), of an already existing public record.

(6) The custodian of a public record shall, upon written request, furnish a requesting person a certified copy of a public record.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018.

Popular name: Act 442

Popular name: FOIA

15.234 Fee; limitation on total fee; labor costs; establishment of procedures and guidelines; creation of written public summary; detailed itemization; availability of information on website; notification to requestor; deposit; failure to respond in timely manner; increased estimated fee deposit; deposit as fee; failure to pay or appeal deposit; request abandoned.

Sec. 4. (1) A public body may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record if it has established, makes publicly available, and follows procedures and guidelines to implement this section as described in subsection (4). Subject to subsections (2), (3), (4), (5), and (9), the fee must be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. Except as otherwise provided in this act, if the public body estimates or charges a fee in accordance with this act, the total fee must not exceed the sum of the following components:

(a) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

(b) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information as provided in section 14. For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14 as determined by the public body's FOIA coordinator on a case-by-case basis, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges under this subdivision if it clearly notes the name of the contracted person or firm on the detailed itemization described under subsection (4). Total labor costs calculated under this subdivision for contracted labor costs must not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the improved workforce opportunity wage act, 2018 PA 337, MCL 408.934. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. A public body shall not charge for labor directly associated with redaction under section 14 if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the public body's possession.

(c) For public records provided to the requestor on any form of nonpaper physical media, the actual and most reasonably economical cost of the nonpaper physical media. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This subdivision does not apply if a public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.

(d) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee must not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. A public body shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

(e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the public body's choosing; however, all partial time increments shall be rounded down.

(f) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner. The public body shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

(2) When calculating labor costs under subsection (1)(a), (b), or (e), fee components shall be itemized in a manner that expresses both the hourly wage and the number of hours charged. The public body may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization described in subsection (4). Subject to the 50% limitation, the public body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed itemization described in subsection (4). A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either of the following:

(a) An individual who is entitled to information under this act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If the requestor is eligible for a requested discount, the public body shall fully note the discount on the detailed itemization described under subsection (4). If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if any of the following apply:

(i) The individual has previously received discounted copies of public records under this subsection from the same public body twice during that calendar year.

(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

(b) A nonprofit organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:

(i) Is made directly on behalf of the organization or its clients.

(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.

(iii) Is accompanied by documentation of its designation by the state, if requested by the public body.

(3) A fee as described in subsection (1) shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

(4) A public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary shall be written in a manner so as to be easily understood by the general public. If the public body directly or indirectly administers or maintains an official internet presence, it shall post and maintain the procedures and guidelines and its written public summary on its website. A public body shall make the procedures and guidelines publicly available by providing free copies of the procedures and guidelines and its

written public summary both in the public body's response to a written request and upon request by visitors at the public body's office. A public body that posts and maintains procedures and guidelines and its written public summary on its website may include the website link to the documents in lieu of providing paper copies in its response to a written request. A public body's procedures and guidelines must include the use of a standard form for detailed itemization of any fee amount in its responses to written requests under this act. The detailed itemization must clearly list and explain the allowable charges for each of the 6 fee components listed under subsection (1) that compose the total fee used for estimating or charging purposes. Other public bodies may use a form created by the department of technology, management, and budget or create a form of their own that complies with this subsection. A public body that has not established procedures and guidelines, has not created a written public summary, or has not made those items publicly available without charge as required in this subsection is not relieved of its duty to comply with any requirement of this act and shall not require deposits or charge fees otherwise permitted under this act until it is in compliance with this subsection. Notwithstanding this subsection and despite any law to the contrary, a public body's procedures and guidelines under this act are not exempt public records under section 13.

(5) If the public body directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any charges under subsection (1)(b). If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the public body shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed itemization described in subsection (4), the public body shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website. If the public body has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form as described under subsection (1)(c), the public body shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation in subsection (2), not to exceed the actual costs of providing the information in the specified format.

(6) A public body may provide requested information available in public records without receipt of a written request.

(7) If a verbal request for information is for information that a public body believes is available on the public body's website, the public employee shall, where practicable and to the best of the public employee's knowledge, inform the requestor about the public body's pertinent website address.

(8) In either the public body's initial response or subsequent response as described under section 5(2)(d), the public body may require a good-faith deposit from the person requesting information before providing the public records to the requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee described in subsection (4). Subject to subsection (10), the deposit must not exceed 1/2 of the total estimated fee, and a public body's request for a deposit must include a detailed itemization as required under subsection (4). The response must also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy under section 1 and the nature of the request in the particular instance. If a public body does not respond in a timely manner as described under section 5(2), it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses. Providing an estimated time frame does not relieve a public body from any of the other requirements of this act.

(9) If a public body does not respond to a written request in a timely manner as required under section 5(2), the public body shall do the following:

(a) Reduce the charges for labor costs otherwise permitted under this section by 5% for each day the public body exceeds the time permitted under section 5(2) for a response to the request, with a maximum 50% reduction, if either of the following applies:

(i) The late response was willful and intentional.

(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

(b) If a charge reduction is required under subdivision (a), fully note the charge reduction on the detailed itemization described under subsection (4).

(10) This section does not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(11) Subject to subsection (12), after a public body has granted and fulfilled a written request from an individual under this act, if the public body has not been paid in full the total amount under subsection (1) for the copies of public records that the public body made available to the individual as a result of that written request, the public body may require a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if all of the following apply:

(a) The final fee for the prior written request was not more than 105% of the estimated fee.

(b) The public records made available contained the information being sought in the prior written request and are still in the public body's possession.

(c) The public records were made available to the individual, subject to payment, within the time frame estimate described under subsection (8).

(d) Ninety days have passed since the public body notified the individual in writing that the public records were available for pickup or mailing.

(e) The individual is unable to show proof of prior payment to the public body.

(f) The public body calculates a detailed itemization, as required under subsection (4), that is the basis for the current written request's increased estimated fee deposit.

(12) A public body shall no longer require an increased estimated fee deposit from an individual as described under subsection (11) if any of the following apply:

(a) The individual is able to show proof of prior payment in full to the public body.

(b) The public body is subsequently paid in full for the applicable prior written request.

(c) Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the public body.

(13) A deposit required by a public body under this act is a fee.

(14) If a deposit that is required under subsection (8) or (11) is not received by the public body within 45 days from receipt by the requesting person of the notice that a deposit is required, and if the requesting person has not filed an appeal of the deposit amount pursuant to section 10a, the request shall be considered abandoned by the requesting person and the public body is no longer required to fulfill the request. Notice of a deposit requirement under subsection (8) or (11) is considered received 3 days after it is sent, regardless of the means of transmission. Notice of a deposit requirement under subsection (8) or (11) must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1988, Act 99, Imd. Eff. Apr. 11, 1988;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 523, Imd. Eff. Dec. 28, 2018;—Am. 2020, Act 38, Imd. Eff. Mar. 3, 2020.

Constitutionality: The disclosure of public records under the freedom of information act impartially to the general public for the incremental cost of creating the record is not a granting of credit by the state in aid of private persons and does not justify nondisclosure on the theory that the information is proprietary information belonging to a public body. *Kestenbaum v Michigan State University*, 414 Mich 510; 417 NW2d 1102 (1982).

Popular name: Act 442

Popular name: FOIA

15.235 Request to inspect or receive copy of public record; response to request; failure to respond; damages; contents of notice denying request; signing notice of denial; notice extending period of response; action by requesting person; law enforcement records management system; alternate responses.

Sec. 5. (1) Except as provided in section 3, a person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the FOIA coordinator of a public body. A written request made by facsimile, electronic mail, or other electronic transmission is not received by a public body's FOIA coordinator until 1 business day after the electronic transmission is made. However, if a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall, subject to subsection (10), respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

- (a) Granting the request.
- (b) Issuing a written notice to the requesting person denying the request.
- (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.

(d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request. A public body shall not issue more than 1 notice of extension for a particular request.

(3) Failure to respond to a request under subsection (2) constitutes a public body's final determination to deny the request if either of the following applies:

- (a) The failure was willful and intentional.
- (b) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference to this act, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

(4) In a civil action to compel a public body's disclosure of a public record under section 10, the court shall assess damages against the public body under section 10(7) if the court has done both of the following:

- (a) Determined that the public body has not complied with subsection (2).
 - (b) Ordered the public body to disclose or provide copies of all or a portion of the public record.
- (5) A written notice denying a request for a public record in whole or in part is a public body's final determination to deny the request or portion of that request. The written notice must contain:

(a) An explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

(b) A certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the public body, if that is the reason for denying the request or a portion of the request.

(c) A description of a public record or information on a public record that is separated or deleted under section 14, if a separation or deletion is made.

- (d) A full explanation of the requesting person's right to do either of the following:
- (i) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.
 - (ii) Seek judicial review of the denial under section 10.

(e) Notice of the right to receive attorneys' fees and damages as provided in section 10 if, after judicial review, the court determines that the public body has not complied with this section and orders disclosure of all or a portion of a public record.

(6) The individual designated in section 6 as responsible for the denial of the request shall sign the written notice of denial.

(7) If a public body issues a notice extending the period for a response to the request, the notice must specify the reasons for the extension and the date by which the public body will do 1 of the following:

- (a) Grant the request.
 - (b) Issue a written notice to the requesting person denying the request.
 - (c) Grant the request in part and issue a written notice to the requesting person denying the request in part.
- (8) If a public body makes a final determination to deny in whole or in part a request to inspect or receive a copy of a public record or portion of that public record, the requesting person may do either of the following:

- (a) Appeal the denial to the head of the public body under section 10.
- (b) Commence a civil action, under section 10.

(9) Notwithstanding any other provision of this act to the contrary, a public body that maintains a law enforcement records management system and stores public records for another public body that subscribes to the law enforcement records management system is not in possession of, retaining, or the custodian of, a public record stored on behalf of the subscribing public body. If the public body that maintains a law enforcement records management system receives a written request for a public record that is stored on behalf of a subscribing public body, the public body that maintains the law enforcement records management system shall, within 10 business days after receipt of the request, give written notice to the requesting person identifying the subscribing public body and stating that the requesting person shall submit the request to the subscribing public body. As used in this subsection, "law enforcement records management system" means a data storage system that may be used voluntarily by subscribers, including any subscribing public bodies, to share information and facilitate intergovernmental collaboration in the provision of law enforcement services.

(10) A person making a request under subsection (1) may stipulate that the public body's response under subsection (2) be electronically mailed, delivered by facsimile, or delivered by first-class mail. This subsection does not apply if the public body lacks the technological capability to provide an electronically mailed response.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2018, Act 105, Imd. Eff. Apr. 5, 2018;—Am. 2020, Act 36, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.236 FOIA coordinator.

Sec. 6. (1) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator. The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5). In a county not having an executive form of government, the chairperson of the county board of commissioners is designated the FOIA coordinator for that county.

(2) For all other public bodies, the chief administrative officer of the respective public body is designated the public body's FOIA coordinator.

(3) An FOIA coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial under section 5(4) and (5).

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1996, Act 553, Eff. Mar. 31, 1997.

Popular name: Act 442

Popular name: FOIA

15.240 Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as

contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240a Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.

Sec. 10a. (1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee

that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.240b Failure to comply with act; civil fine.

Sec. 10b. If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.

History: Add. 2014, Act 563, Eff. July 1, 2015.

Popular name: Act 442

Popular name: FOIA

15.241 Matters required to be published and made available by state agency; form of publications; effect of matter not published and made available; exception; action to compel compliance by state agency; order; attorneys' fees, costs, and disbursements; jurisdiction; definitions.

Sec. 11. (1) A state agency shall publish and make available to the public all of the following:

- (a) Final orders or decisions in contested cases and the records on which they were made.
- (b) Promulgated rules.

(c) Other written statements that implement or interpret laws, rules, or policy, including but not limited to guidelines, manuals, and forms with instructions, adopted or used by the agency in the discharge of its functions.

(2) Publications may be in electronic format or in pamphlet, loose-leaf, or other appropriate form in printed, mimeographed, or other written matter.

(3) Except to the extent that a person has actual and timely notice of the terms thereof, a person is not required to resort to, and shall not be adversely affected by, a matter required to be published and made available, if the matter is not so published and made available.

(4) This section does not apply to public records that are exempt from disclosure under section 13.

(5) A person may commence an action in the court of claims to compel a state agency to comply with this section. If the court determines that the state agency has failed to comply, the court shall order the state agency to comply and shall award reasonable attorneys' fees, costs, and disbursements to the person commencing the action. The court of claims has exclusive jurisdiction to issue the order.

(6) As used in this section, "state agency", "contested case", and "rule" mean "agency", "contested case", and "rule" as those terms are defined in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 2014, Act 563, Eff. July 1, 2015;—Am. 2020, Act 37, Imd. Eff. Mar. 3, 2020.

Popular name: Act 442

Popular name: FOIA

15.243 Exemptions from disclosure; public body as school district, intermediate school district, or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

(vii) Disclose the identity of a party who, as described in subdivision (cc), proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. For the purpose of securing the party's anonymity, that party or the party's designee may provide written notification of the civil action and the party's wish to remain anonymous to any law enforcement agency that has investigating records subject to this subparagraph, and the law enforcement agency shall retain a copy of that notification in its files with those investigating records.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(i) An agreement is entered into.

(ii) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of natural resources may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(i) Identify or provide a means of identifying an informant.

(ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(iii) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(iv) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(v) Disclose operational instructions for law enforcement officers or agents.

(vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(ix) Disclose personnel records of law enforcement agencies.

(x) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(ii) The fact that an allegation was received by the department; the fact that the department did not issue a

complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the Social Security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.

(aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.

(bb) Records or information that would reveal the specific location or GPS coordinates of game, including, but not limited to, records or information of the specific location or GPS coordinates of game obtained by the department of natural resources during any restoration, management, or research project conducted under section 40501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40501, or in connection with the expenditure of money under section 43553 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43553. As used in this subdivision, "game" means that term as defined in section 40103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40103.

(cc) Information that would reveal the identity of a party who proceeds anonymously in a civil action in which the party alleges that the party was the victim of sexual misconduct. As used in this subdivision, "sexual misconduct" means the conduct described in section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b, 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, regardless of whether the conduct resulted in a criminal conviction.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection is not used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requestor to execute an affidavit stating that directory information provided under this subsection will not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made

available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

History: 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1993, Act 82, Eff. Apr. 1, 1994;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2000, Act 88, Imd. Eff. May 1, 2000;—Am. 2001, Act 74, Imd. Eff. July 24, 2001;—Am. 2002, Act 130, Eff. May 1, 2002;—Am. 2002, Act 437, Eff. Aug. 1, 2002;—Am. 2006, Act 482, Imd. Eff. Dec. 22, 2006;—Am. 2018, Act 68, Eff. June 17, 2018;—Am. 2021, Act 33, Imd. Eff. June 24, 2021;—Am. 2023, Act 64, Imd. Eff. July 12, 2023.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For transfer of powers and duties of the state historic preservation office relating to the identification, certification, and preservation of historical sites from the Michigan state housing development authority to the Michigan strategic fund, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Popular name: Act 442

Popular name: FOIA

15.243a Salary records of employee or other official of institution of higher education, school district, intermediate school district, or community college available to public on request.

Sec. 13a. Notwithstanding section 13, an institution of higher education established under section 5, 6, or 7 of article 8 of the state constitution of 1963; a school district as defined in section 6 of Act No. 451 of the Public Acts of 1976, being section 380.6 of the Michigan Compiled Laws; an intermediate school district as defined in section 4 of Act No. 451 of the Public Acts of 1976, being section 380.4 of the Michigan Compiled Laws; or a community college established under Act No. 331 of the Public Acts of 1966, as amended, being sections 389.1 to 389.195 of the Michigan Compiled Laws shall upon request make available to the public the salary records of an employee or other official of the institution of higher education, school district, intermediate school district, or community college.

History: Add. 1979, Act 130, Imd. Eff. Oct. 26, 1979.

Popular name: Act 442

Popular name: FOIA

15.244 Separation of exempt and nonexempt material; design of public record; description of material exempted.

Sec. 14. (1) If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

(2) When designing a public record, a public body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.245 Repeal of MCL 24.221, 24.222, and 24.223.

Sec. 15. Sections 21, 22 and 23 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.221, 24.222 and 24.223 of the Michigan Compiled Laws, are repealed.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

15.246 Effective date.

Sec. 16. This act shall take effect 90 days after being signed by the governor.

History: 1976, Act 442, Eff. Apr. 13, 1977.

Popular name: Act 442

Popular name: FOIA

GLADSTONE



City of Gladstone, MI

1100 Delta Avenue
Gladstone, MI 49837
www.gladstonemi.org

**MEETING TYPE
STAFF REPORT**

Agenda Date: 04-07-2025

**Eric Buckman, City
Manager:**

Department: _____
City Commission

Department Head Name: _____

Presenter: _____
City Commission

Kim Berry, City Clerk: _____

This form and any background material must be approved by the City Manager, then delivered to the City Clerk by 4:00 PM the Tuesday prior to the Commission Meeting.

AGENDA ITEM TITLE:

City of Gladstone Joint Meeting w/ Gladstone Housing Commission – Presentation by Housing Commission of Proposed Housing Project

BACKGROUND:

Various documents provided by Gladstone Housing regarding project

FISCAL EFFECT:

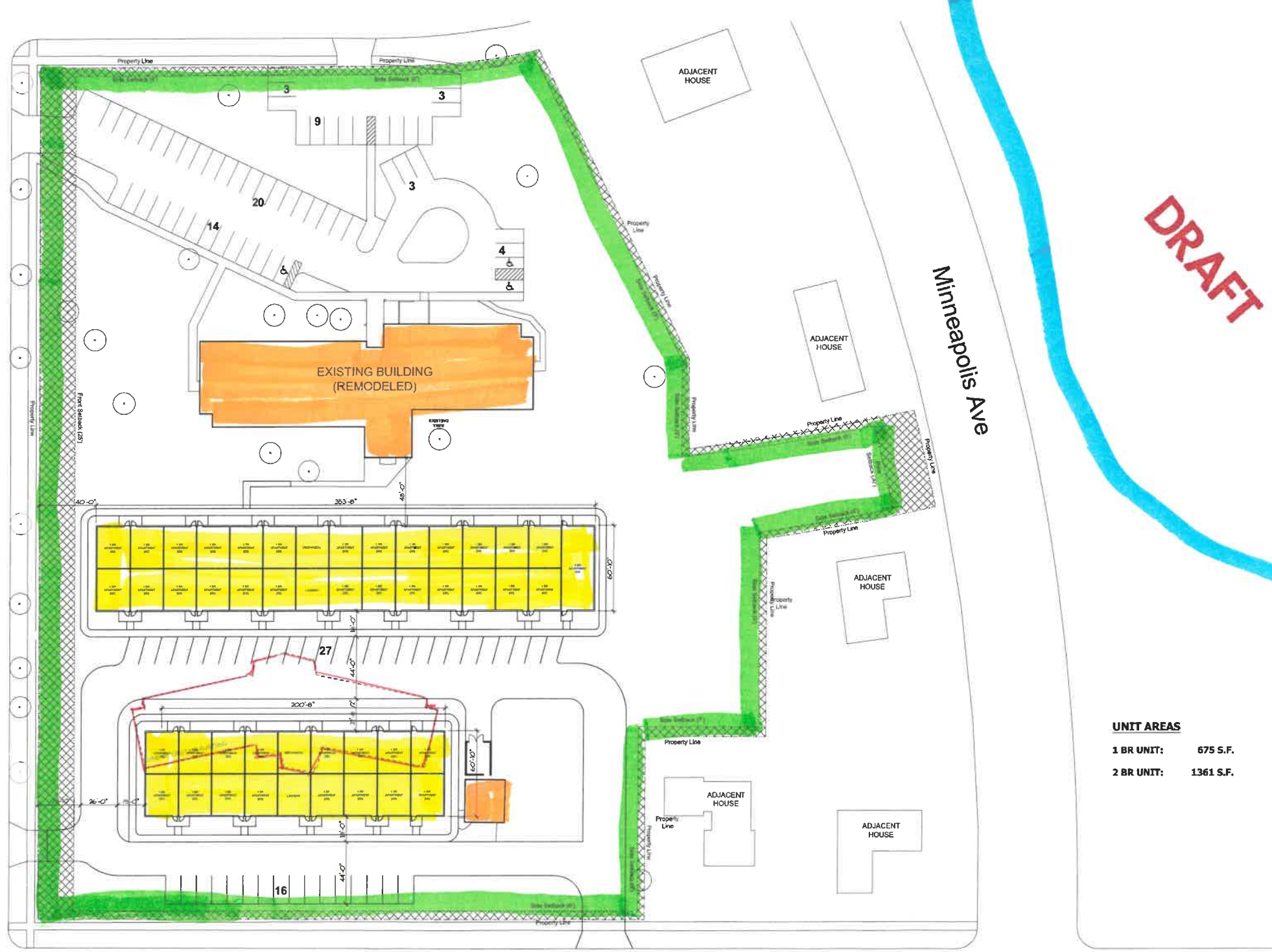
SUPPORTING DOCUMENTATION:

Various documents provided by Gladstone Housing
Email from Clerk Berry to City Commission
Email and Letter from Manager Buckman

RECOMMENDATION:

DRAFT

DRAFT



UNIT AREAS
1 BR UNIT: 675 S.F.
2 BR UNIT: 1361 S.F.



1 ARCHITECTURAL SITE PLAN (PROPOSED) - NEW LOCATION
 SCALE: 1" = 30'

	ARCHITECTS: CROFT LIMITED 1025 South Park Drive Green Bay, Wisconsin 54301 www.croft.com 920-432-1232 FAX 920-432-7283	SET BY: DWG: JMS REV: JMS DATE: 08/20/2025	REVISIONS: DATE: 08/20/2025 BY: JMS DESCRIPTION:	JOB NO.: 2025-008 DRAWN BY: JMS CHECKED BY: JMS	PROPOSED APARTMENTS 217 DAKOTA AVE GLADSTONE, MI ARCHITECTURAL SITE PLAN 2 NEW BLDG LOCATIONS

Proposed Letter of Support

The City Commission of Gladstone has received a request to review the Section 18 Demo/ Disposition for the Gladstone Housing Commission's 50-unit Fairview Manor building, located at 415 South 4th Street, Gladstone, MI 49837.

The Housing Commission has supplied the City Commission with the Physical Needs Assessment prepared by Architects Group Limited and the structural report prepared by U.P. Engineers & Architects, along with other documents.

After meeting with the Housing Commission Board and reviewing these documents. We feel it is best to allow the appointed Gladstone Housing Commission board to make the determination on the Section 18 Demo/ Disposition of the property. We would support the decision made by the Housing Commission board members.

Sincerely,



FY 25 Appropriations

THE WHITE HOUSE HAS PROPOSED its Fiscal Year (FY) 25 HUD budget, and the House of Representatives and the Senate have both released their FY 25 bills and passed them through their respective Appropriations Committees. There is considerable disagreement across the three budgets, with the White House and Senate budgets proposing modest increases while the House budget includes sharp cuts to many core HUD programs.

As with the FY 24 budget cycle, FY 25 appropriations are limited by provisions in the Fiscal Responsibility Act of 2023, which raised the country's debt ceiling but also enacted non-defense discretionary spending caps for the FY 24 and FY 25 budgets. These caps allow for only a small increase in the FY 25 discretionary budget. However, the Senate has appropriated additional emergency funding that allows its FY 25 budget to exceed those caps.

In this challenging appropriations environment, it is crucial that Congress ensure maximum funding for core HUD programs that provide safe, sanitary, and decent housing for low-income families. Rising insurance rates, increasing Tenant

Accounts Receivable (TARs), and higher personnel costs all require greater funding for HAs. Additionally, for the voucher program, rental inflation is nearly at 10 percent year-over-year, requiring much greater appropriations just to renew all existing vouchers.

PHADA urges caution when viewing the figures for HUD accounts because these will change as Congress debates these matters. Neither the House nor the Senate bills have passed their respective chamber, and it is likely that there will be a continuing resolution (CR) if Congress is unable to pass all 12 appropriations bills before September 30, 2023.

Public Housing Operating Fund FAIRVIEW

The Senate has proposed a modest decrease (2.0 percent) in operating funding relative to FY 24 levels, while the House has proposed a much more dramatic decrease in funding of nearly 7.5 percent. Both figures are inadequate, however, given inflationary pressures, rising insurance rates, challenges to conform with HUD's new NSPIRE standards, and continued high levels of tenant accounts receivable (TARs).

For reference, a recent HUD presentation noted that the total amount of TARs across the public housing portfolio is currently \$570 million, and the Department has previously stated that one-in-five HAs is "severely impacted" by TARs—meaning there was an increase in uncollected rent and a decrease in reserves. The Association continues to push HUD to refrain from penalizing HAs for TARs issues through performance reviews (PHAS).

Capital Fund

The Senate has proposed the same \$3.2 billion in capital fund appropriations as in FY 24 enacted levels, while the House has proposed a nearly 5 percent decrease to the capital fund. These amounts are wholly inadequate for HAs in today's environment of rapid inflation for construction materials, the need to conform to new NSPIRE and Build America Buy America (BABA) standards, and additional mandates related to health and safety (smoke detectors, radon, etc.).

Shortfall Funding

The Senate has proposed more than quadrupling public housing shortfall funding, to \$107 million, over the \$25 million enacted in FY 24. However, the House has only proposed maintaining the same funding as FY 24 enacted levels.

Recently released data indicate that HAs are eligible for over \$600 million in shortfall funding, so even the Senate's relatively higher figure will only cover about 18 percent of shortfall needs.

Section 8 Voucher Renewals WATERVIEW (BAYVIEW OLD)

While the Senate has put forth a 12.4 percent increase in funding for voucher renewals, the House has proposed essentially flat funding for HCV contracts. Given that voucher per unit costs (PUCs) are increasing at nearly 10 percent year-over-year, the House bill would essentially result in a 90 percent proration, and many HAs would have to stop issuing vouchers if that funding level were enacted.

Administrative Fees

The Senate has proposed a modest increase (4.0 percent) for voucher administrative fees, while the House THUD bill only provides for flat funding relative to FY 24 enacted levels. PHADA will continue to advocate for increased voucher fees, and we encourage members to share with their Representatives and Senators how crucial admin fees are to running an efficient and successful voucher program.

FY 25 Budget Table for Selected HUD Accounts (IN \$MILLIONS)

	FY 24 ENACTED	FY 25 PHADA RECOMMENDED	FY 25 WHITE HOUSE	FY 25 HOUSE PROPOSED	FY 25 SENATE PROPOSED	% CHANGE FY 24 ENACTED TO SENATE PROPOSED
Total HUD Discretionary	\$70,069		\$72,600	\$64,827	\$78,200	+11.6%
Public Housing Operating Fund	\$5,476	\$5,838	\$5,050	\$5,097	\$5,366	-2.0%
Public Housing Capital Fund	\$3,200	\$5,000	\$3,200	\$3,047	\$3,200	-
Public Housing Shortfall	\$25	\$377	\$178	\$25	\$107	+328%
Voucher Contract Renewals	\$28,491	\$30,617	\$29,251	\$28,500	\$32,035	+12.4%
Voucher Administrative Fees*	\$2,741	\$3,217	\$2,934	\$2,740	\$2,850	+4.0%
Tenant Protection Vouchers	\$337	\$500	\$300	\$300	\$300	-11.0%
Incremental Vouchers	\$45**	\$241	\$241	\$0	\$45**	-
Project Based Rental Assistance	\$16,010	\$16,686	\$16,286	\$16,195	\$16,254	+1.5%
Choice Neighborhoods	\$75	\$150	\$140	\$0	\$100	+33.3%
HOME	\$1,250	\$2,500	\$1,250	\$500	\$1,425	+14.0%
CDBG	\$3,300	\$4,200	\$2,900	\$3,300	\$3,300	-
FSS	\$141	\$200	\$125	\$125	\$146	+3.5%
ROSS	\$40	\$40	\$35	\$35	\$40	-
Jobs-Plus	\$15	\$15	\$15	\$15	\$15	-

3 FARRIE

WATER WIL

*Less fees for special purposes
**\$15 million in incremental HUD-VASH, \$30 million in Incremental FUP

Tenant-Protection Vouchers

Both the House and Senate bills include \$300 million for tenant protection vouchers (TPVs), which is an 11 percent reduction over FY 24 enacted funding. Given HUD's recent efforts to streamline RAD/Section 18 blends, PHADA urges members to advocate for additional TPV funding.

Project-Based Rental Assistance

The House and Senate have both proposed modest increases in PBRA funding. Both chambers believe this funding will allow HUD to renew all existing contracts. As with voucher renewals, the increase in rental costs is also forcing appropriators to increase funding for PBRA contracts.

Incremental Vouchers

While the White House budget included \$241 million to new vouchers, only the Senate has included some funding for incremental vouchers—\$15 million for new Veterans Affairs Supportive Housing (VASH) vouchers, and \$30 million for new Family Unification Vouchers. The House has not proposed any incremental voucher funding.

Other HUD Programs

HOME and CDBG

The House and Senate include flat funding for the Community Development Block Grant (CDBG) program. While the Senate has put forth a 14 percent increase in HOME funding, the House has proposed a 60 percent decrease to \$500 million. Given the importance of HOME to meeting local affordable housing needs, PHADA urges Congress to fully fund this crucial program.

Self-Sufficiency Programs

The House has proposed an 11 and 12.5 percent cut to the Family Self-Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency (ROSS) programs, respectively. Both proposals would revert funding for these programs to FY 23 enacted levels. However, the Senate has put forth a modest increase (3.5 percent) in FSS funding and flat funding for the ROSS program.

Choice Neighborhoods

The House has not proposed any funding to Choice Neighborhoods. The Senate bill appropriates \$100 million, a 33 percent increase relative to FY 24, but a sharp decrease compared to the \$350 million appropriated in FY 23. ■

From: [Kim Berry](#)
To: [Brad Mantela](#); [Joe Thompson](#); [Judy Akkala](#); [Robert Pontius](#); [Steve O'Driscoll](#)
Cc: [Eric Buckman](#)
Subject: Gladstone Housing Commission Letter & Information
Date: Tuesday, September 10, 2024 12:20:58 PM
Attachments: [Housing Commission Letter 09-04-2024.pdf](#)
[Housing Commission Special Agenda - Minutes of 09-03-2024.pdf](#)
[Office of Public & Indian Housing - Section 18 Demo Checklist September 2022.pdf](#)
[Fairview Manor Foundation Evaluation - UP Engineers 12-05-2018.pdf](#)
[Architects Group Limited - Fairview Manor Needs Assessment - 08-08-2024.pdf](#)

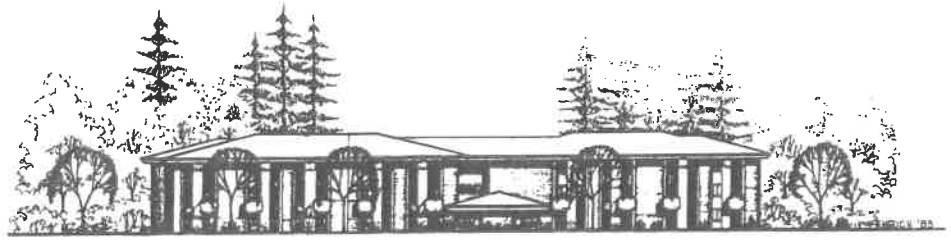
Commission,

Please find attached a letter and information from the Gladstone Housing Commission. Please remember no group responses through email per the Open Meetings Act, this is information only.

Thank you,
Kim

Kimberly Berry, MiPMC
Gladstone City Clerk
906-428-2311 x 6
kberry@gladstonemi.gov

GLADSTONE HOUSING COMMISSION



217 DAKOTA AVENUE

GLADSTONE, MICHIGAN 49837

(906) 428-2215

September 4, 2024

The Honorable

Joseph Thompson Mayor, Brad Mantela Mayor Pro-Tem, Robert Pontis Commissioner,
Judy Akkala Commissioner, Steve O'Driscoll Commissioner

Gladstone City Commission

City of Gladstone

1100 Delta Avenue

Gladstone, Michigan 49837

Honorable Commission Members,

The Gladstone Housing Commission for fifty-seven years has help meet the needs of Gladstone's low income senior and disabled residents. Supplying much needed affordable, safe and clean housing to this vulnerable population.

Since 2008 our Commission has seen decreases or flat Federal funding, to the point that this funding does not keep up with the needed repairs to keep the Fairview Manor building operational.

In 2012, the Commission started looking for better ways to fund and maintain the buildings, Fairview and Bayview Manors. In 2014 the Federal Governments RAD (Rental Assistance Demonstration) program under HUD was the best possible chance to bring the much need funding through Tax Credits. The Commission had sought to repair and upgrade the buildings in their present location as no other suitable location was available within the city.

After a study was done of the buildings for the RAD conversion requirements. It was found that Bayview Manor could get funding. In 2021 Bayview was converted after receiving funding and was renamed Waterview I apartments. It is now run under the Section 8 tax credit program. The Housing Commission has been contracted to supply staff to manage the building.

However, Fairview Manor could not meet the requirements to receive funding under RAD. The Commission continues to look for other sources of funding. The commission is currently looking to apply for funding under HUD's Section 202 program, which is senior housing only. This funding program was to be released in the fall of 2021 and we are still waiting for the application period to open. If we receive the funding Fairview Manor will still have to be razed and a new building built.

In the mean time the Commission can use the HUD Section 18 Demo/ Dispo program to help find other housing for the current residents and raze the Fairview Manor building helping to make sure Gladstone does not get stuck with an abandoned building. After HUD approval it would take 6 to 18 months to close Fairview. If Fairview is razed this could help to open up other funding sources for possible different types of construction on the site.

The Commission would also receive HUD funding for 5 years to continue operations while applying for other funding sources.

If you have any questions, please feel free contact me or the Executive Director.

Sincerely,

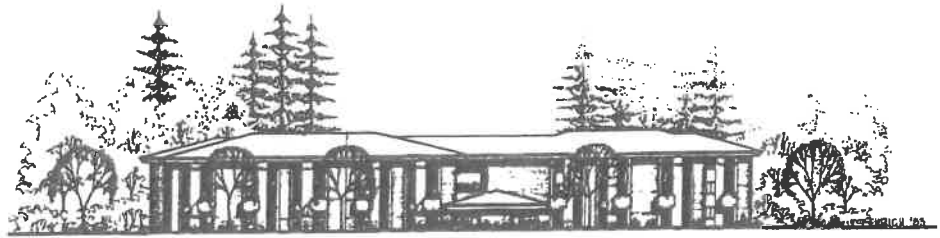


Paula Waeghe, Board President
Gladstone Housing Commission
217 Dakota Avenue
Gladstone, MI 49837

cc: Comm. Joseph Maki (VP), Comm. Mary Bosk, Comm. Rudy Kaminen, Comm. Anne Chapman, Michael Lindahl (ED)

**GLADSTONE
HOUSING
COMMISSION**

217 DAKOTA AVENUE



● GLADSTONE, MICHIGAN 49837 ●

(906) 428-2215

NOTICE

The Gladstone Housing Commission will be holding a Special Meeting of the Board. The meeting will be held Tuesday September 3, 2024 at 7:00 PM in the Fairview Manor Community Room.

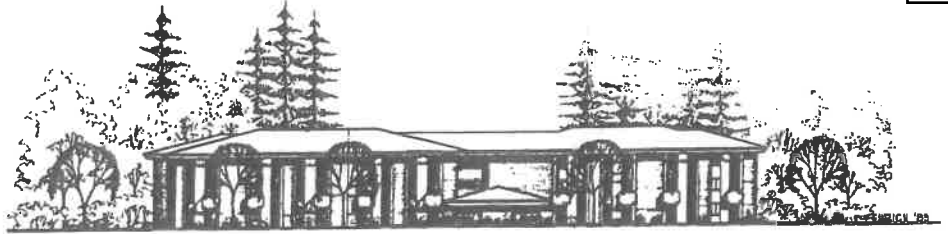
The topic of the meeting will be to Needs Assessment from the Architect and the Section 18 process or other alternatives.

Please contact the office at (906) 428-2215 if you have any questions

Michael Lindahl
Secretary of the Commission

GLADSTONE HOUSING COMMISSION

217 DAKOTA AVENUE



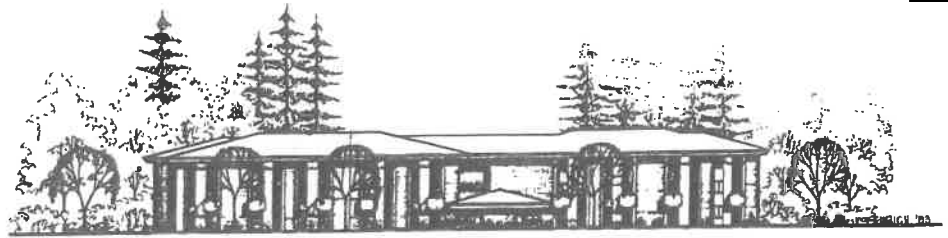
● GLADSTONE, MICHIGAN 49837 ●

(906) 428-2215

AGENDA SPECIAL MEETING SEPTEMBER 3, 2024

- I. Roll Call.
- II. New Business.
 1. Need Assessment from the Architect and the Section 18 process.
- III. Adjournment.

GLADSTONE HOUSING COMMISSION



217 DAKOTA AVENUE

GLADSTONE, MICHIGAN 49837

(906) 428-2215

MINUTES OF THE SPECIAL MEETING OF SEPTEMBER 3, 2024

Commission President Waeghe called the meeting to order at 7:00 p.m., September 3, 2024. A roll call of commissioners was made with the following results:

Present: Pres. Waeghe, Comm. Bosk, Comm. Chapman, Comm. Maki, Comm. Kaminen.

Absent: None

Secretary and Executive Director Michael Lindahl was also in attendance.

The Commission discussed the Needs Assessment for Fairview supplied by the Architect and the need to remove and replace the building. The amount of monies needed to fix the building far exceeds the funding available for the building. So, no funding sources are available to repair the building for its total needs. Section 202 funding is the best source of funding to replace the building however that funding has not yet been released and time frame has not been given. Section 18 is the best source to remove the building and continue to receive funding while trying to find funding sources. It also opens other programs to fund smaller projects on the site. If we choose not to use Section 18. We can start taking units off line and close the building units that need the most repair, until funding sources can be found to replace or fix the building. However, if we choose to do it that way, we will lose funding for the units and come to the point where expenses will exceed income.

Several residents were in attendance and asked many questions about the process of section 18. They requested an exact time line for the possible closing of the building and details of how they would be moved. They were told that this is just the start of the process and would be a multiple years long process and requires HUD approval. That it would take 6 to 18 months to close the building after HUD approval and HUD would have to approve the Relocation Plan for the residents.

The Commission discussed starting the Section 18 process and sending a letter to the City of Gladstone informing them of the process. The Commission directed the Executive Director to act on behalf of the Commission to sign documents related to the Section 18 process.

DRAFT

A motion was made by Comm. Kaminen and supported by Comm. Bosk to start the Section 18 process and to give the Executive Director authority to act on behalf of the Commission and to sign documents related to the Section 18 process.

Ayes: Pres. Waeghe, Comm. Bosk, Comm. Maki, Comm. Kaminen, Comm. Chapman.

Nays: None, motion passed.

There being no further business to come before the Commission, Pres. Waeghe moved to adjourn at approximately 7: 58 p.m. Comm. Bosk seconded the motion.

Ayes: Pres. Waeghe Comm. Bosk, Comm. Chapman, Comm. Maki, Comm. Kaminen.

Nays: None, motion passed. Meeting adjourned.

DRAFT

Paula Waeghe, President

Michael Lindahl, Secretary



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 Green Bay, WI 54301
 Phone: 920-432-1232
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August 8, 2024

Fairview Manor
 Needs Assessment

Replace roofing, tear off and install new insulation and EPDM <i>Existing EPDM membrane roof installed in 2004 at end of life, seams are separating. Replace roofing and insulation.</i>	\$529,920.00
Replace metal roof edging <i>Metal cap and roof edging circa 1968 to be replaced along with roofing</i>	\$20,580.00
Relocate roof access ladder and roof hatch <i>Roof access ladder does not have sufficient clearance to wall for foot placement. Cannot move ladder out from wall as it would impede stair access. Ladder and roof access hatch to be relocated.</i>	\$7,500.00
Replace cracked concrete cap by incinerator stack, tuck point brick, replace brick, install clear sealer <i>Concrete cap on former elevator shaft above roof is original and severely cracked. Brick face on shaft walls with spalled surfaces to be replaced.</i>	\$25,000.00
Replace 11 exit signs with LED <i>Exit signs replace to LED for energy efficiency</i>	\$2,750.00
Replace hall carpeting <i>Hallway carpeting installed in 2002 is beyond useful life. Replace.</i>	\$23,540.00
Replace 3-fan coil units in corridor ceiling <i>Fan coil units are original from 1968 and beyond useful life</i>	\$33,240.00
Replace can lights in corridor <i>Replace corridor can lights with LED can lights for energy efficiency.</i>	\$14,400.00
Replace apartment entry doors/frames/hardware <i>Wood entry doors/frames are original from 1968 and showing wear, splits, delamination. Replace with new.</i>	\$130,000.00
Add handrail to corridors <i>Install handrail in corridor for tenant safety</i>	\$17,610.00
Change out stairwell doors/frames/hardware <i>Stairwell wood doors and hollow metal frames are original from 1968 and are showing wear, splits, delamination. Do not close properly, to be replaced for safety</i>	\$31,500.00
Replace stairwell handrails <i>Stair wood handrails are original from 1968. Present configuration does not meet code. Replace for tenant safety.</i>	\$13,000.00
Replace stair treads <i>Existing vinyl stair treads nosing cracking. Replace for tenant safety.</i>	\$12,000.00
Replace stair landings with rubber tile <i>Stair landings are carpet from 2002. Carpet beyond useful life. Replace with rubber tile for tenant safety.</i>	\$10,370.00

Laundry rooms, replace drain piping. Replace dryer venting to sidewall <i>Replace drain piping and dryer vent duct and reconfigure room to clean up appearance.</i>	\$42,565.00
Replace exterior hollow metal doors/frames with aluminum doors/frames in community room, second floor patio, front entry, side exits <i>Existing exterior hollow metal doors/frames are original from 1968 and are rusting badly. Replace with aluminum.</i>	\$75,120.00
Replace community kitchen flooring, cabinets, range hood, roll-up doors, lower serving counter, lighting <i>Community room kitchen is original from 1968, is showing signs of wear and is not ADA accessible.</i>	\$20,000.00
Community room, replace windows, lighting, closet doors, flooring, paint walls/ceiling <i>Carpet was replaced in 2002 and is at end of life. Lighting to upgrade to LED for energy efficiency.</i>	\$51,410.00
Replace community room split systems <i>Air conditioning split system installed 35 years ago is past end of life.</i>	\$31,450.00
Install new mailboxes, larger horizontal box style and new wall framing <i>Present mailboxes do not meet USPS mailbox requirements.</i>	\$20,000.00
New Hi-Lo drinking fountains <i>Provide Hi-Lo drinking fountains to meet ADA requirements</i>	\$5,500.00
Convert hair dressing room to storage <i>Former hair dressing room has not been used for years. Convert this room into usable storage space</i>	\$3,000.00
Separate storm line and sewer line <i>Storm line and sewer line are combined withing the building. Separate lines to meet city requirements.</i>	\$87,575.00
Replace sewer line in crawl space <i>Life expectancy for cast iron pipe is 50 years. Existing sewer line is original from 1968 – 56 years ago.</i>	\$125,590.00
Relocate boilers from basement to new grade level mechanical/electrical room at end of building <i>Life expectancy for high efficiency boilers is 15 years. Present boilers are 12 years old and exhibit problems and need more maintenance now. Replace with new Move boilers out of basement which is subject to flooding.</i>	\$877,000.00
Create new Grade level mechanical Room – Assume 800 s.f. <i>Present basement mechanical room subject to flooding. Relocate to grade</i>	\$240,000.00
Replace fin pipe radiation covers and fin pipe, zone valves, ball valves, unions, balancing valves, coin vents all apartments and public areas <i>Fin pipe and covers were replaced 2004. Covers are dented, bent. Valves and venting at that time were not replaced. Replaced with new for appearance and to minimize maintenance on heating system.</i>	\$428,850.00
Replace windows <i>Windows were replaced in 2000. Window replacement parts not available</i>	\$264,000.00
Replace stucco panels with EIFS around windows <i>With planter boxes removed. Remove remainder of stucco and replace with EIFS for uniform appearance and energy efficiency.</i>	\$192,500.00
Paint apartments <i>Paint apartments to provide attractive appearance</i>	\$158,150.00
Replace first floor drywall ceiling for heating piping replacement <i>Upgrade heating line sizes due to boiler relocation</i>	\$14,175.00
Remove wall in kitchen and enlarge kitchen for more counter space, solid surface countertop, range hoods	\$845,215.00

<i>Kitchens are small, enlarge kitchen to make the room larger and provide tenant with more cabinet and counter space.</i>	
Change out apartment bi-fold closet doors <i>Closet doors are original to 1968 building and showing wear</i>	\$70,600.00
Replace apartment thermostats <i>Replace thermostats with easier to read larger dial for tenants use</i>	\$85,700.00
Remodel apartment bathrooms with new shower bases, solid surface walls, shower controls, toilets, vanities and tops, medicine cabinets, exhaust fans and ductwork <i>Update bathroom with new vanities and showers, medicine cabinets, material is original from 1968</i>	\$578,695.00
Add mini-split units to each apartment for air conditioning <i>Provide air conditioning for tenants to make units more attractive to rent</i>	\$503,950.00
Replace apartment carpeting <i>Carpeting showing wear and use</i>	\$91,320.00
Install LVT in apartment kitchen and bathrooms <i>Provide modern flooring in kitchen and bathrooms to make unit more attractive to rent</i>	\$39,840.00
Install vinyl base <i>New flooring will require new base</i>	\$33,000.00
Replace apartment interior doors/hardware <i>Interior doors original to building and showing signs of wear. Provide lever hardware for ADA accessibility</i>	\$108,750.00
Install light switch for apartment entry closet <i>Present closet light is on a pull chain. Provide wall switch for tenant convenience</i>	\$10,000.00
Install new electric range 30" width <i>Provide standard 30" stove in lieu of 21" which are harder to find</i>	\$50,000.00
Remove exterior second floor planter boxes <i>Remove exterior stucco planter boxes which are not used and source of maintenance</i>	\$25,000.00
Replace concrete patio <i>Existing concrete patio is original to building 1968 and has multiple cracks. Uneven surface. Replace for tenant safety.</i>	\$13,040.00
Replace exterior lights/poles <i>Exterior light poles are original to building. Replace with new and upgrade to LED for more modern appearance and energy efficiency.</i>	\$45,000.00
Modify crawl space venting <i>Provide crawl space venting extending above snow line</i>	\$1,500.00
Replace side entry sidewalk for ADA access <i>Replace side entry walks with ramped surface for ADA accessibility</i>	\$9,000.00
Replace north drive apron <i>Existing drive apron concrete surface is severely spalled.</i>	\$9,000.00
Replace partial exterior sidewalks <i>Replace cracked and raised exterior sidewalks for tenant safety.</i>	\$3,500.00
Storage garage, replace garage door, pass door, create a stoop, replace roof <i>EPDM roof replaced in 2004 at end of life. Passage door rusting. Present stoop is tilted. Provide a new stoop on frost walls to create level surface for safety. Overhead garage door old and worn. Provide new insulated overhead door.</i>	\$46,620.00
TOTAL	\$6,077,965.00

MAX COST OF REPAIRS CAN ONLY BE
\$3,100,000⁰⁰

The contents of this document, except when based on statutory or regulatory authority or law, does not have the force and effect of law and is not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

This checklist summarizes the application requirements for the demolition and/or disposition of public housing in accordance with Section 18 of the 1937 Act, 24 CFR part 970, and PIH Notice 2021-07. This checklist does not apply to Section 18 dispositions proposed as part of a RAD/Section 18 Blend under PIH Notice 2021-07. For application requirements on the Blends, https://www.hud.gov/program_offices/public_indian_housing/repositioning/rad_section18 The basic Section 18 application requires:

- Completion of IMS/PIC application screens (e.g., selecting buildings/units)
- HUD-52860, HUD-52860-A, and HUD-52860-B (if applicable) required attachments as signed PDFs uploaded
- Supporting documentation pursuant to 24 CFR part 970 and PIH Notice 2021-07, as summarized in this checklist.

□ General Information.

1. Date of application
2. PHA name & code
3. PHA contact
4. Local HUD Field Office (FO) of Public Housing and Expeditor

□ Property Description.

1. Units/buildings (PIC numbers)
2. Acreage
3. Description of land (e.g., copy of the legal description; survey, site and lot map if for a portion of AMP)
4. Recorded Declaration of Trust (DOT) or Declaration of Restrictive Covenant (DORC)
5. Description of UFAS-accessible units distribution (at development and proposed for removal under S18)
NOTE: PHAs report UFAS-accessible units for their entire Public Housing Portfolios in MicroStrategy. PHAs must ensure this information is current and complete. Incomplete UFAS-accessible data may delay FHEO review.

□ PHA Plan.

The demolition/disposition must be included in a (HUD-approved) PHA Annual Plan or in a Significant Amendment to an Annual Plan. The description of the demolition/disposition in the Annual Plan must be identical to the description in the SAC application.

□ Local Government Consultation.

1. Name local jurisdiction(s)
2. Mayor's (or highest elected official) letter supporting the demo/dispo
3. Narrative description of consultation with dates, meetings, issues raised and PHA responses. If no response by government, description of attempts at government consultation.

□ Resident and Resident Group Consultation

1. Resident. PHA develops demo/dispo application in consultation with residents to be displaced or otherwise affected. Provide date(s) and narrative of consultation process. Attach supporting documents (e.g., agenda, meeting notices; sign-in sheets; minutes, print-out of written or email consultation)
2. Resident Council. If there is a Resident Council, provide name of council and date and narrative of consultation.
3. Resident Advisory Board (RAB). Provide date and narrative of consultation.
4. Attach copies of all written comments from residents or resident groups/organizations during the consultation

<p>o Estimated Value of Property (Disposition Only) Provide independent appraisal (within past year) of Property’s fair market value (FMV). Provide a summary, name of appraiser, and date. If the disposition is negotiated at below FMV, HUD may accept an alternative form of valuation (i.e., tax assessor opinion)</p>
<p>o Environmental Review (ER). Completed under 24 CFR Part 50 or 58 identifying the demolition or disposition and any known future use. May include HUD-7015.16 to verify completion.</p>
<p>o Board Resolution. Signed and dated after resident and local government consultation</p>
<p>o Demolition Justification and Description (Demolition or Demolition and Disposition)</p> <ol style="list-style-type: none"> Property Identification (portion, non-dwelling) Cost of Demolition Source of Funds Justification (Physical condition, location, other factors) <i>(see Appendix A)</i> Supporting documentation for demo (rehab estimate and 52860-B) If only a portion of property is demolished, narrative statement on viability of remaining property Future use of property after demolition (if known) (i.e. disposition, redevelopment as public housing)
<p>Disposition Justification and Description (Disposition Only)</p> <ol style="list-style-type: none"> Justification (check box on 52860-A; attach description and supporting documentation) <i>(see Appendix A)</i> Disposition details—method of disposition (sale or ground lease); FMV or below FMV; name of acquiring entity (if known); proposed future use of property (if known) (including narrative of commensurate public benefit, if below FMV)¹ (optional--include Transaction Table(s) on Appendix C) Certificate of good standing (if negotiated at or below FMV)
<p>o Proceeds (Disposition Only)</p> <ol style="list-style-type: none"> Estimated amount of gross and net proceeds Use of gross proceeds for relocation costs and/or reasonable costs of disposition. Attach a brief narrative/budget Use of net proceeds (if known) (check box on 52860-A). Attach brief narrative, budget, or other supporting documentation). If unknown, indicate. Once known, Request SAC approval of proposed use.
<p>o Resident Offer of Sale or Request for Exception (Disposition Only)</p> <ol style="list-style-type: none"> Is PHA exercising an exception (check box on 52860-A)? If not exercising an exception, name all established eligible organizations. Provide the notifications to organizations and date sent. Summarize responses. Indicate if a proposal was received and if the PHA accepted it.
<p>o Timetable.</p> <ol style="list-style-type: none"> Begin and end relocations Execute contract (demo or sales) Remove property
<p>o Relocation Plan.</p> <ol style="list-style-type: none"> Occupied Units (automatically populated in PIC) (no data entry required) Number of individual residents displaced (from public housing lease, even if no physical displacement)² Name of agency providing relocation counseling services to residents (if different from PHA) Description of relocation counseling and advisory services

¹ If a PHA is planning on disposing of the property for below Fair Market Value (FMV) based on commensurate public benefit, the deal must be firm, subject to HUD approval.

² Form HUD-52860 requires PHAs to provide a summary of resident displacement by race/national origin and disability. HUD will review the data in the 50058 to confirm this information. Please ensure 50058 data is current.

<p>5. Estimated cost and anticipated funding source for resident moves (actual and reasonable) and other relocation expenses (including counseling)</p> <p>6. If PHA does NOT administer an HCV Program, name of Section 8 HCV Administrating Agency (who agrees in writing) and approval from local HUD Office of Public Housing FO</p> <p>7. Number of TPVs requested, narrative supporting TPV request and proposed use for relocation (how TPVs will be offered, i.e. tenant-based voucher with or without the option to lease on-site, project-based voucher—existing, or project-based voucher—new/rehabilitated after an AHAP and development period)</p> <p>8. Comparable housing offered to displaced residents (check box on 52860). PHAs may offer more than one form of comparable housing. Consider family relocation preferences, households where a family member has a disability, and families not eligible for Section 8 HCV assistance (i.e., because over-income)</p> <p>PHAs may, but are not required to, submit a comprehensive written Relocation Plan. The Uniform Relocation Act (URA) does not apply. See 24 CFR 970.21</p>
<p><input type="checkbox"/> HUD-52860, HUD-52860-A, and HUD-52860-B (if justification is physical obsolescence) Submitted as PDFs (including signed certifications)</p>
<p><input type="checkbox"/> HUD-5837 (required only if demo/dispo will remove all remaining units from the PHA’s ACC inventory/PIC count) Submitted as PDF (including signed certifications)</p>
<p><input type="checkbox"/> Energy Performance Contract (EPC) (if applicable). Since PHAs receive Operating Subsidy to pay the EPC debt, the PHA must address the EPC debt in the SAC Section 18 application process.</p> <ul style="list-style-type: none"> • EPC Debt: When a PHA demolishes or disposes of Public Housing units which benefited from energy conservation measures installed as part of an EPC, prepayment of the EPC debt will most often be required. The PHA should establish its plans for addressing the EPC debt associated with EPC in conjunction with the development of their repositioning plans. If a PHA does not have sufficient EPC expertise on staff to determine the impact of the disposition or demolition on the EPC debt and EPC cash flow, they may need to procure such expertise. PHAs are required to submit EPC documentation for HUD’s issuance of an amended EPC approval letter, which will identify the balance of EPC debt that can remain with public housing, as part of the demolition or disposition process. • Disposition: SAC approval will state that the PHA cannot dispose/close on the conversion of units, and HUD will not release the DOT until the EPC debt is repaid in the amount determined by HUD. PHAs should submit the EPC Review Package (identified below) a minimum of 60 business days before their planned closing date. • Demolition: Submit a complete EPC Review Package for an EPC Approval Letter at the time of submission of the DDA Section 18 demolition application, or no later than 60-business days prior to when the SAC demolition is anticipated. SAC will not approve the application until the EPC debt is repaid. • EPC Approval Letter: PHAs must obtain a revised EPC Approval letter when the cumulative change is 5% or greater for units removed from the EPC and 10% or greater cumulative change in EPC costs or savings since the most recent EPC Approval Letter. Review time will take 45 business days from the time of receiving all the documentation necessary for the review. The best practice is to submit a complete EPC Review Package at the same time of submitting a Demolition or Disposition Application, or no later than 60-business days prior to when the EPC Approval Letter is required. Failure to supply all documentation can delay the process. PHA’s should give themselves enough time and utilize the necessary expertise (e.g., consultants or ESCOs) to gather needed information for complete EPC review package. • Documentation: The PHA should submit documentation for the EPC Review Package as defined at https://www.hud.gov/sites/dfiles/PIH/documents/RAD_EPC_FAQs.pdf to the Energy Branch at PIHEnergyBranch@hud.gov. PHA’s should give themselves enough time and utilize the necessary expertise to gather
<p><input type="checkbox"/> Capital Fund Financing Program (CFFP) and Repayment Agreement(s). If obligation impacts units, repayment required before SAC approval</p>
<p><input type="checkbox"/> Community Supportive Services (CSS) program. If property has an existing Resident Opportunities and Self Sufficiency (ROSS), Family Self Sufficiency (FSS), or Jobs Plus (JP) grant, review conversion impact to grant/families. See https://www.hud.gov/sites/dfiles/PIH/documents/CSS%20Matrix.pdf. For FSS or ROSS, contact PIH Field Office with questions. For JP, contact your Grant Manager with questions.</p>

APPENDIX A
Justification Options for Demolition

PIH Notice 2021-07

NOTE: Demolition Applications (including Demolition and Disposition Applications) are submitted when a PHA plans to demolish property while it is under a HUD Declaration of Trust (DOT). The PHA demolition must comply with Section 3, Davis-Bacon and other public housing requirements (and PHA may use Capital Funds). If the PHA plans to transfer obsolete property so that a LIHTC entity or other third-party can complete the demolition (with outside funds), it submits a Disposition only Application.

Justification	Submission Requirements and Supporting Documentation
Obsolete: Physical Condition	<p>Evidence substantial physical issues of the buildings/units (i.e., critical structural issues, deficiencies in major systems, deterioration due to prolonged deferred maintenance) that are not cost-effective to repair (rehab costs exceed 57.14% of TDC for elevator buildings and 62.5% of TDC for elevator buildings).</p> <p><i>MAX REPAIR COST \$3,100,000</i></p> <p>Required: HUD-52860-B (TDC analysis), Excel document of list of specific and detailed work-items that require rehabilitation or repair within next 3 years, preferably prepared by an outside engineer or architect that includes SCOPE OF WORK and COST-ESTIMATES. See PIH Notice 2021-07</p> <p>Optional: Physical Needs Assessment (PNA), government inspections (including condemnation orders), and/or independent architect or engineer's reports (reports are required to support structural defects, and asbestos and lead remediation).</p>
Obsolete: Location	<p>Evidence the location causes obsolescence (i.e. environmental or proximity to highway/factory make property no longer suited for residential use)</p> <p>Required: Narrative and third-party documentation; cost-test (PHA's cost to cure/mitigate)</p>
Obsolete: Other Factors	<p>Evidence conditions impacting the marketability, usefulness, or management of the units that seriously impede operations for residential use supported by third party documentation.</p>
De Minimis	<p>In any 5-year period, a PHA may demolish the lesser of 5 dwelling units or 5 percent of the total public housing dwelling units.</p> <p>CERTIFY the resulting space is used to meet the service or other needs of the residents or the PHA determines the unit(s) are beyond repair.</p> <p>SAC approval not required but prior to demolition, the PHA must submit a PIC application and wait for SAC to acknowledge the action (and ensure environmental compliance).</p>

APPENDIX B
**Justification Options for Dispositions
PIH Notice 2021--07**

Justification	Submission Requirements and Supporting Documentation
Surrounding Area-Health and Safety 970.17(a)	<ol style="list-style-type: none"> Evidence conditions in the area that present serious obstacles to maintaining units as healthy/safe housing (ideally from third party; may include part 58 ER determination). Narrative of why conditions cannot be cured or mitigated in a cost-effective manner.
Surrounding Area-Infeasible Operation 970.17(a)	Evidence the lack of demand for the units (i.e., long-term vacancy issues, notwithstanding due diligence in marketing, census tract data on declining populations; isolated area with limited access to transportation and infrastructure; high turnover rates).
Improved Efficiency/Effectiveness Off-Site Development 970.17(b)	<ol style="list-style-type: none"> Evidence of firm plans to replace with PH or PBV <ol style="list-style-type: none"> Public housing units. Submit development proposal under 24 CFR 905 . PBV. Submit "intent to project-base" notification to HUD pursuant to 24 CFR § 983.6(d), as amended, and PIH Notice 2017-21 Att. No minimum number (or 1-1 replacement) required, but evidence why replacement units are preferred.
Improved Efficiency/Effectiveness On-Site Development 24 CFR 970.17(c)	See above. If same units are proposed (i.e., change from PH to PBV) then the plan must include modernization/rehabilitation of the units.
Unit obsolescence (PHYSICAL only) (cannot be used for LOCATION or OTHER FACTORS)	Evidence units are obsolete as to physical condition in accordance with applicable demolition criteria (i.e. rehab cost-estimate and HUD-52860). See above.
Very Small PHAs	Evidence operation of 50 or fewer public housing units and commitment to closeout under PIH Notice 2016-23. Generally, a narrative (story) of how PHA proposes disposition and closeout (i.e., in connection with method of disposition, need for TPVs and partnering with voucher agency, use of proceeds, consolidation vs. closeout).
Blend with Rental Assistance Demonstration (RAD) <ul style="list-style-type: none"> • Construction • Small PHA 	PHA REQUESTS THE SECTION 18 BY SUBMITTING A RAD APPLICATION ONLY. PHA SHOULD BE ADVISED TO SUBMIT A RAD APPLICATION THAT REQUESTS THE BLEND
Scattered Site Units	<ol style="list-style-type: none"> Evidence units are unsustainable to operate and/or maintain as public housing (narrative, operating budgets, distance between units, description of different systems-HVAC). Evidence units are in non-contiguous buildings Evidence buildings have four or fewer total units NOTE: Any building configuration is acceptable provided 4 or fewer units on a block (i.e. 4 single-family homes next door to one another)
Non-dwelling 24 CFR 970.17(d)	Narrative statement and supporting documentation that non-dwelling buildings or vacant land exceeds the needs of the project after the date of full availability (DOFA); or the disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the project.



APPENDIX C
Transaction Chart



The completion of these charts is OPTIONAL and are being provided to assist the PHA in describing/summarizing the disposition transaction as part of its SAC Application. PHAs may change this chart to meet their particular disposition/transaction and delete lines that do not apply. If a PHA is disposing of property to more than one entity, for different purposes, complete separate charts

For All Dispositions	
Property Proposed for Disposition: XX dwelling buildings (XX dwelling units and XX non-dwelling units); XX non-dwelling buildings; XX acres at XXX (name and number of AMP/development)	
Approved Method of Disposition: e.g., Public bid (auction or MLS); Negotiated Sale (Below FMV); Negotiated Ground Lease for XX Years (FMV); Seller (PHA) financing	
Acquiring Entity (if known/ Negotiated)	e.g. ABC Development, LP (state N/A if public bid)
Disposition Amount	e.g. \$1/ sale; \$1/year ground lease
Approved Building Numbers in PIC and/or attached legal description (for dispositions of a portion of an AMP) XXX	

Below FMV Dispositions based on Commensurate Public Benefit (24 CFR 970.19)					
Total Units XXX	Affordable Housing for families at 80% and below AMI			Market Rate (Manager)	Market Rate (Other)
	ACC	PBV (proposed)*	Other Affordable		
Rental	XXX	XXX	XXX	XXX	XXX
Non-Dwelling Uses of Property	e.g. community building				
Summary	COMPLETE SUMMARY: e.g., FOR RENTAL DWELLING UNITS: existing units will be maintained as Affordable Housing, existing units will be substantially rehabbed using LIHTC. existing units will be demolished and new construction of LIHTC unitse.g., FOR NON-DWELLING, Property will primarily serve families at or below 80% of AMI as				

*PHA has indicated this as the number of units that it plans to attach PBV assistance to at the property. However, this chart is not HUD approval of the PBV assistance to the units. PHA and/or PBV Project Owner must independently and separately comply with all applicable PBV program requirements including section 8(o)(13) of the 1937 Act (as amended by HOTMA, Public Law 114-201, 130 Stat. 782), HUD regulation at 24 CFR part 983, and other applicable HUD guidance. These include, but are not limited to, HOTMA Federal Register (FR) Implementation Notice at 82 FR 5458 (January 18, 2017), 82 FR 32461 (Jul. 14, 2017) (HOTMA Correction), 85 FR 12001 (Feb. 28, 2020) (SLR), PIH Notice 2017-21 (HA), and environmental requirements outlined in PIH Notice 2016-22 (HA).

APPENDIX D
 (Section 18 Order of Operations)

This Appendix is intended to assist PHAs in planning Section

18 demolitions and dispositions. The steps below are a framework to enable PHAs to track the main required steps in order to complete the Section 18 process. Note: This is not intended to be a comprehensive list of all requirements.

1. PHA begins the Environmental Review process under part 58 (or Part 50).
2. PHA secures information needed for justification (e.g. rehab cost-estimate for obsolescence)
3. If PHA is a public housing only PHA, PHA begins process to find an agency with an HCV program to administer the TPVs and requests HUD FO approval of the agreement between the two PHAs
4. PHA includes the Section 18 Annual PHA Plan, either through significant amendment, or the regular Annual Plan process. PHA holds required public comment period for its Annual Plan. PHA submits Annual Plan to HUD FO for approval. Qualified PHAs discuss Section 18 demolition or disposition at a hearing
5. PHA consults impacted residents, resident council, RAB
6. PHA consults local government officials on Section 18. PHA obtains a letter of support(s)
7. PHA obtains Board Approval
8. PHA submits Section 18 Application via HUD-52860, HUD-52860-A and HUD-52860-B (if applicable) via IMS/PIC
9. HUD's Special Applications Center (SAC) reviews application and issues a response (e.g. approval)
10. PHA issues 90-day notice on relocation to families (even if no physical displacement). Notice describes offer of comparable housing (e.g. tenant-based assistance, PBV unit, another public housing unit). PHA may not force family to relocate prior to 90-days but family may voluntarily choose to relocate as soon as comparable housing resource (i.e. TPV, another public housing units) is available
11. PHA applies for TPVs (30-60 days before planned start of relocation)
12. PHA relocates families off-site. PHA provides TPVs to families who have selected tenant-based assistance as their first preference for comparable housing. PHA assists in relocation and ensuring families are leased-up. PHA holds oral briefing required by 24 CFR 982.301. When a family leases a unit with the TPV, PHA puts family in "End of Participation (EOP)" status in the public housing program and adds family to HCV in HUD-50058
13. If demolition—PHA enters into demolition contract and proceeds with demolition
14. If disposition and project will not be used as rental housing after disposition, PHA requests a release of the DOT from the HUD FO (based on approved Section 18—e.g. transfer of property to another entity. HUD releases DOT and use restriction is recorded, if applicable
15. If disposition and project will be used as rental housing after disposition:
 - If PHA plans to attach project-based voucher (PBV) assistance to the units, PHA takes necessary steps to enter into a PBV HAP for the units in accordance with 24 CFR part 983, PIH Notice 2017-21 (e.g. HQS inspections, sending notification email to HUD PBV submission mailbox)
 - PHA complies with relocation requirements noted above, by issuing 90-day notice to families. PHA may offer families comparable housing in their current units (as tenant-based or PBV assistance).
 - PHA requests a release of the DOT from the HUD FO (based on approved Section 18—e.g. transfer of property to another entity). PHA submits draft use agreement, if applicable. HUD releases DOT and use restriction is recorded, if applicable
 - In accordance with voucher rules at 24 CFR parts 982, 983, as amended, the PHA enters into HCV HAP or PBV HAP contracts for families remaining with tenant-based or project-based assistance
 - PHA "relocates" families who will remain at the project with HCV assistance by putting them in EOP status in public housing program and adding them to HCV assistance in HUD-50058
16. Deposit proceeds from disposition (if applicable) in an account subject to a HUD-51999 GDA. Record proceeds as a "restricted" asset on the associated project's financial data schedules (FDS)

17. Within 7 days after the disposition occurs, PHA requests (through IMC/PIC) that HUD FO change the status of the units/property to "Removed from Inventory" in IMS/PIC

Item 4.

FAIRVIEW MANOR FOUNDATION EVALUATION



Prepared under the Supervision of:

Gust Junttila, P.E.
U.P. Engineers & Architects, Inc.
2906 N. Stephenson Ave, Suite 2
Iron Mountain, MI 49801



December 5, 2018



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[G38-19118]

December 5, 2018

Gladstone Housing Commission
Attn: Mike Lindahl, Executive Director
217 Dakota Avenue
Gladstone, MI 49837

**RE: FAIRVIEW MANOR
FOUNDATION EVALUATION**

Dear Mr. Lindahl:

U.P. Engineers & Architects, Inc. inspected the foundation conditions of the Fairview Manor located at 217 Dakota Avenue, Gladstone, Michigan on November 9, 2018. The purpose of the inspection was to determine if the foundation will be structurally adequate and functional for a minimum of 15 more years and to make any recommendations for maintenance, repair/renovation, or reconstruction. The inspection yielded the following **OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS.**

I. OBSERVATIONS

- 1) The Fairview Manor was constructed in the late 1960's. The foundation consists of masonry block walls, masonry block columns, and a concrete floor slab.
- 2) Based on water markings along the walls and reported information, water has flooded the basement multiple times up to approximately 2'-6" above the basement slab (see photo 1).
- 3) The basement is housing boilers and electrical breakers among other things (see photos 2-3).
- 4) Water flows into the basement sump continuously, **an approximate rate of 27 gallons per minute during average conditions.** The sump contains two pumps in which the lower pump often has to run continuously since it cannot keep up with the flow. It is apparent that the water table elevation is higher than the basement floor slab elevation.
- 5) The masonry columns in the basement have been patched up their faces with mortar to the approximate height of the apparent maximum water level of roughly

38,880
GALLONS
PER
DAY

2'-6" (see photo 4). Although it was difficult to tell the condition of these patched up columns, it appeared that the masonry may have some loss of structural section based on soundings. No other structural deficiencies have been noted in the walls such as cracking or bowing.

- 6) At the basement door to the exterior, the walkway is steep and drains storm water directly toward the doorway. One small drain is located at the landing, but it was reported that water floods the basement in this manner as well (see photos 5-6).
- 7) Perimeter French drains have been installed in several locations in the basement to keep flood water levels down when the basement does flood (see photos 7-8).

II. CONCLUSIONS

- 1) It is questionable whether the foundation will last another 15 years in its current state. Reported information is that the groundwater has some contaminants that has worn out pumps quickly and has clogged discharge pipes. The presence of these contaminants could explain the wear of the masonry columns mentioned in #5 above. Masonry block is porous and therefore water can enter and when contaminated can cause adverse reactions with the cement mixture in the block and thus deteriorating the block.
- 2) The functionality of the basement is limited. As mentioned above, the basement is home to boilers and electrical breakers. Significant flooding in the basement would pose a severe threat to damaging expensive boilers or starting an electrical fire. Flooding of the basement will continue to happen during heavy rains or when the sump pumps fail.

III. RECOMMENDATIONS

- 1) It is recommended to reinforce the masonry columns with a 6 inch thick concrete "shell" with #3 vertical reinforcing bars for their lower 3'-0". This will give the columns good protection from further deterioration and add stability. It is not recommended to fill in the entire basement area with concrete up to the apparent water table level of 2'-6". This would add an extreme amount of weight to the structure and would likely cause the building to settle. The additional concrete weight would transfer through to the perimeter and interior footings and thus add loading to the underlying soil that it hasn't seen throughout its life. Additionally, filling in the basement would require that the boilers and electrical equipment are moved to an upper floor. This would be a very expensive and exhaustive process to move all of the piping, wiring, and equipment.
- 2) With the water table being so high, there is nothing else you can do to control the water besides what is currently being done with pumps. Therefore, in addition to reinforcing the columns as noted, it is recommended to enclose the boiler area with a water tight wall that is 2'-6" to 3'-0" high. That way the boilers are still accessible but are less susceptible to water damage. Another sump pit could also be installed within this wall so that any water that may come up through the floor could be drained into the pit and pumped out. Also, electrical wires and

breakers should be stored above anticipated flood waters. Additionally, the basement walls, floor, and columns should be coated with a waterproofing paint. These remedies do not prevent water from flooding the basement, but they help to resist problems due to those flood waters. Given that water would need to be continually pumped as it is currently, it may be cost prohibitive for the Housing Commission to continue building operations.

Sincerely,

U.P. Engineers & Architects, Inc.

A handwritten signature in black ink, appearing to read "Gust Junttila". The signature is written in a cursive style with a large initial "G".

Gust Junttila, P.E.

Encl.

- Inspection Photos

INSPECTION PHOTOS

Fairview Manor
Foundation Inspection 11-9-18

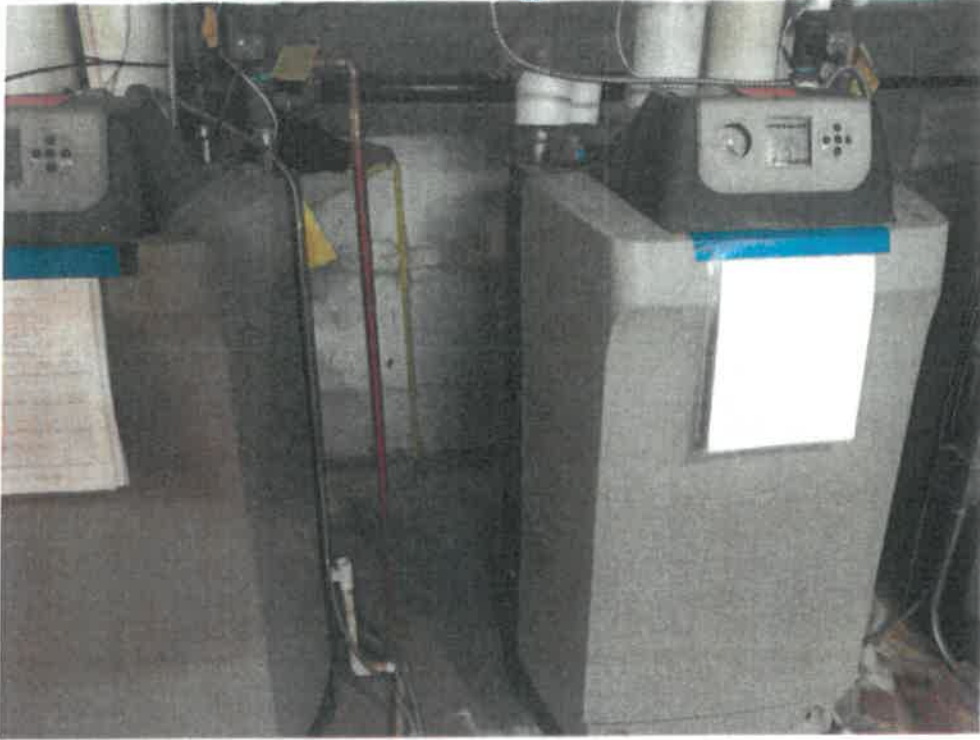


Photo 1: Height of water stains approximately 2'-6"



Photo 2: Boilers

Fairview Manor
Foundation Inspection 11-9-18



Photo 3: Electrical breaker boxes etc.



Photo 4: Patched masonry column (typ)

Fairview Manor
Foundation Inspection 11-9-18



Photo 5: Exterior drain at landing of exterior walkway



Photo 6: Exterior walkway from photo 5



Photo 7: Perimeter French drains or baseboard drains



Photo 8: Perimeter French drains or baseboard drains and floor drain