

Subject: Public Record Request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A
Date: Wednesday, May 29, 2024 at 1:09:39 PM Eastern Daylight Time
From: Commonwealth Transparency <info@opencommonwealth.org>
To: mluisse@cityofmalden.org <mluisse@cityofmalden.org>, maluisse@boslaw.net <maluisse@boslaw.net>, Ron Hogan <rhogan@CITYOFMALDEN.ORG>, Deborah Burke <dburke@CITYOFMALDEN.ORG>
Priority: High
Attachments: The Malden Community Fund Committee, Inc.pdf

Greetings:

This is a ***not*** a modification of a prior public records request under the Massachusetts Public Records Law M.G.L. c66, §§ 10-10A:

Please provide the following documents/records in your possession or under your control for the Malden Community Fund Committee, Inc. (Corporate Filing Attached) for ***any time prior to and through May 29, 2024:***

- The bylaws of the Corporation
- Any and all filings made with the Commonwealth of Massachusetts
- Any and all IRS (Internal Revenue Service) filings
- Any and all meeting notices
- Any and all meeting minutes
- Any EIN assigned to the corporation by the IRS
- Any EIN assigned by the Commonwealth of Massachusetts
- A copy of any and all banking statements for any and all banking/savings/share/investment accounts
- A copy of the financial ledger maintained for the Corporation
- A copy of any expenditures made by the Corporation
- A copy of any and all income to the Corporation
- A copy of any and all donations made to the Corporation
- A copy of any and all financial statements for the Corporation
- A roster of any stockholders
- A roster of any donors
- The structure of the board of directors.
- The process for electing directors and officers.
- Meeting procedures.
- Voting rights and procedures.
- A copy of any and all payments made to any person for any purpose, including but not limited to salary, benefits, bonuses, expenses, reimbursements.

This request seeks responsive documents be delivered in electronic format and in the format in which they are regularly maintained, and specifically includes all electronic mail attachments ***and metadata.***

Where no such records in the above categories exist, please provide a written statement to that

effect.

With respect to the form of production, we note that relevant regulations require the production of records in an accessible, commonly used electronic form, to the extent feasible. See 950 CMR 32.04(5)(d).

The records custodian who receives this request is required to use his or her “superior knowledge” to determine the exact records that are responsive to this request.

Your government entity may have multiple RAOs that are assigned to a specific division or department within that entity. A request to one RAO may include records of another division or department within the RAOs’ agency or municipality. RAOs must use their superior knowledge of the records to ensure that a request for records is delivered to the appropriate party. Therefore, an RAO is expected to forward such requests to the appropriate parties within its municipality or agency.

Record custodians are also required to implement new record keeping systems and databases in such a way as to allow for “retrieval of public portions of records to provide maximum public access.” See 950 CMR 32.07(1)(e).

Extraction of such data from a database or electronic record system does not constitute creating a new record. See 950 CMR 32.07(1)(f). Printing these records from a database or electronic system, redacting them with a marker, and then re-scanning them, is generally not consistent with these regulations; this process provides the digital records neither in the preferred form nor in a “searchable machine-readable form.” 950 CMR 32.04(5)(d).

If necessary, we welcome reasonable suggested modifications pursuant to 950 CMR 32.06(2)(g). Per Attorney Gen. v. Dist. Attorney for Plymouth Dist., 484 Mass. 260, 141 N.E.3d 429 (2020), compiling information from a database is not tantamount to creating a new record that would otherwise be precluded under public records law. Specifically: “Where public records are in electronic form, a public records request that requires a government entity to search its electronic database to extract requested data does not mean that the extracted data constitute the creation of a new record, which would not be required, under the public records law. ” Id. at 442 to 443.

Thus, we request that your department query its database and provide a response to the records request. Should you determine that some portions of the documents are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note for any such redactions the applicable statutory exemption and explain why it applies to the redacted or withheld information.

This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and further the public understanding of the operation and activities of our government.

Kindest Regards,

