

Subject: Request for Referral to AGO - Request for APPEAL - Request for Determination - City of Malden - Material Misrepresentations to SPR and PRR Requests

Date: Wednesday, July 3, 2024 at 2:43:35 PM Eastern Daylight Time

From: Commonwealth Transparency

To: pre@sec.state.ma.us, Arthur, Manza (SEC)

CC: SEC-DL-PREWEB, publicrecords@cityofmalden.org, Carol Ann Desiderio, Pierce, Patrick (SEC), Gottfredsen, Jeffrey (SEC)

Priority: High

Attachments: spr241754.pdf, PublicRequestDetails #2024-0290.pdf, All Emails.pdf, All Attachments.zip, Exhibit 1.pdf, Exhibit 2.pdf, Exhibit 3.pdf, Exhibit 4.pdf

Greetings:

On June 26, 2024 the SPR determined and published SPR 24/1754 (Attached).

In her determination, she specifically found and stated “Where the original request was submitted to the City, and the City has provided records in its possession, custody, or control that are responsive to the request, I find the City properly responded to this public records request. Further, based upon a telephone conference between a staff attorney of the Public Records Division and a representative of the City, the City confirmed that all responsive records have been provided. “

On July 3, 2024 the City of Malden responded to a PRR from another News Organization, Malden News Network. The request is referred to as #2024-0290 and the request and response are attached hereto.

All 60 responsive emails are attached hereto in the All Emails.pdf document. The attachments for the 60 responsive emails are attached in the All Attachments.zip file.

The City of Malden made material misrepresentations to the SPR and to OpenCommonwealth regarding the public records request at issue in SPR 24/1754.

On May 29, 2024 OpenCommonwealth.org served The City of Malden with the attached PRR. (Exhibit 1)

On June 10, 2024 The City of Malden responded stating verbatim: “Please find attached the only responsive documents that the City of Malden has pertaining to this request.” (Exhibit 2) and provided the attached response document (Exhibit 3).

OpenCommonwealth Appealed, and SPR 24/1754 was opened and docketed as a result.

On June 12 and 13, 2024 Maria Luise, ESQ who is the Special Assistant to the Mayor of Malden and moonlights as the President and Director of the Malden Community

Fund, Inc. communicated with the SPR and OpenCommonwealth regarding the appeal known as SPR 24/1745. In her email she states verbatim “As such, out of an abundance of caution, the City responded with what the City of Malden would have as responsive...”. (Exhibit 4)

The following records were withheld which were and are responsive to OpenCommonwealth’s PRR of May 29, 2024 at issue here and in SPR 24/1754, to be subsequently released on July 3, 2024 in the unrelated PRR (2024-0290) to Malden News Network:

1. Invite.ics (All Attachments.zip)
2. 7-7-2019 ML Email By-Laws.docx (All Attachments.zip)
3. 7-16-2019 RH Email MOUJuly2019NonProfit.docx (All Attachments.zip)
4. 7-30-2019 ML Email By-Laws .docx (All Attachments.zip)
5. By-Laws 12-11-19 ML Email .docx (All Attachments.zip)
6. By-Laws.docx (All Attachments.zip)
7. MaldenCommFundBylaws.docx By-Laws.docx (All Attachments.zip)
8. MOU.docx (All Attachments.zip)
9. MOUJuly2019NonProfit.docx (All Attachments.zip)
10. Every page of All emails.pdf discusses some or all of the following:
 - a. The bylaws of the Corporation
 - b. Filings made with the Commonwealth of Massachusetts
 - c. Meeting notices
 - d. Meeting minutes, discussions and outcomes
 - e. Banking/savings/share/investment accounts
 - f. Financial information maintained for the Corporation
 - g. Expenditures made by the Corporation
 - h. Income to the Corporation
 - i. Donations made to the Corporation
 - j. Financial statements for the Corporation
 - k. The structure of the board of directors.
 - l. The process for electing directors and officers.
 - m. Meeting procedures.
 - n. Voting rights and procedures.
 - o. Payments made.

OpenCommonwealth has information that all of the records sought in the request of May 29, 2024 A.K.A. SPR 24/1754 are in the possession of and under the control of the City of Malden. These records are maintained on City of Malden Systems, accessed, manipulated and used ***exclusively*** by City of Malden employees and paid for by the citizens of Malden. The Corporate Offices of the Malden Community Fund, Inc. are at 110 Pleasant Street, a building owned and operated by the City of Malden.

The City of Malden willfully, with intent and with purpose withheld responsive records in its possession and under its control from OpenCommonwealth and the PRR served upon the City on May 29, 2024.

The City of Malden willfully, with intent and with purpose, made material misrepresentations to OpenCommonwealth and to the SPR regarding responsive records in its possession and under its control from OpenCommonwealth and the PRR served upon the City on May 29, 2024 in their responses to OpenCommonwealth and the SPR (Exhibit 3 and the Determination of SPR 241754).

Maria Luise willfully, with intent and with purpose, made material misrepresentations to OpenCommonwealth and to the SPR regarding responsive records in the possession of and under the control of the City of Malden regarding the PRR served upon the City on May 29, 2024 in her email (Exhibit 4). Maria Luise is a licensed and current member of the Massachusetts Bar Association and has a moral, ethical and legal duty to communicate with candor and honesty to a tribunal (The SPR).

Employees of the City of Malden, Maria Luise, Ron Hogan (Also on the Malden Community Fund, Inc.), Charles Ranaghan and others used City of Malden infrastructure, email systems, computers, addresses, time and effort to operate the Malden Community Fund, Inc. all the while affirming to the SPR, OpenCommonwealth and others "...other records specific to the Malden Community Fund were not public records" (Exhibit 4) and "Please be advised the entity in question, "Malden Community Fund", is a non profit corporate entity that is not under the control of the City off Malden.. Therefore, there are no responsive documents off outgoing payments from the "Malden Community Fund". All the while using taxpayer funded resources, time, materials and systems to operate same.

OpenCommonwealth encourages the SPR to read all of the records and decide for herself if Malden has operated in good-faith.

OpenCommonwealth seek the following relief, findings and Orders:

- A referral to the AGO for material misrepresentations made by the City and by a Lawyer of the City to a records requestor ant to the SPR.
- A referral to the AGO for willful and purposeful withholding of responsive records by Malden.
- Finding and Ordering Malden to perform a comprehensive and diligent search for ALL responsive records regarding the Malden Community Fund, Inc. for all requestors, including OpenCommonwealth.
- Finding and Ordering Malden to produce ALL responsive records to all requestors without delay and without charge.
- Finding that Malden can no longer be treated or benefit from any assumption that they are operating in good faith and are honestly answering public records

requests and as such their words cannot be trusted as to Public Records inquiry and responses.

Kindest Regards,

OpenCommonwealth.org

From: Pierce, Patrick (SEC) <Patrick.Pierce@sec.state.ma.us>
Date: Wednesday, June 26, 2024 at 10:30 AM
To: Commonwealth Transparency <info@opencommonwealth.org>, Carol AnnDesiderio <cdesiderio@cityofmalden.org>, publicrecords@cityofmalden.org <publicrecords@cityofmalden.org>
Cc: SEC-DL-PREWEB <SEC-DL-PREWEB@sec.state.ma.us>
Subject: SPR24/1754 Determination

Good Morning,

Please be aware, the Supervisor of Records has issued a determination relating to an appeal in which you were involved. This determination is attached and available online at: <http://www.sec.state.ma.us/AppealsWeb/AppealsStatus.aspx>.

If you have any questions, please contact the Public Records Division at 617-727-2832 or pre@sec.state.ma.us.

Thank you,

Patrick Pierce (He/Him/His)
Office of the Secretary of the Commonwealth
Public Records Division
One Ashburton Place, Room 1719
Boston, MA, 02108
617-727-2832