Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501-F-2 Certificate of Non-Existence of Public Record

To be sent on District letterhead.

[Date]

[Requester's Name]
[Requester's Address]

Re: Freedom of Information Act Request Dated [_____], 20[__]

Dear [Mr./Ms. _____]:

[Insert District Name] is in receipt of your letter dated [_____], 20[__], regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [Insert statutory receipt date]. You requested [Insert description of records sought].

I hereby certify, pursuant to Section 5(5)(b) of FOIA, that your FOIA request is denied because, to the best of my knowledge, information, and belief, no public records exist as of [Insert statutory receipt date], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to the District. MCL 15.235(5)(b).

Right to Appeal Disclosure Denial and Recover Attorneys' Fees and Costs

If a public body makes a final determination to deny all or a portion of a FOIA request, the requester may do one of the following at his or her option:

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

(2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

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 section 10 of the FOIA, the court will 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 will be assessed

against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the District arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the District willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith, the court will award, in addition to any actual or compensatory damages, punitive damages as prescribed in FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages will not be assessed against an individual but will 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.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

A copy of the District's FOIA Procedures and Guidelines is available on the District's website at [Insert District website].

Very truly yours,

[Insert Name]
FOIA Coordinator
[Insert District Name]

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