



Eric Frankton

Subject: FW: Public Record Requests

This is the City's Attorney's response back,

Eric Frankton
I.T. Director / Records Manager
(RMLO)

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From: Lance D. King [<mailto:lking@fishbacklaw.com>]
Sent: Thursday, September 08, 2016 9:49 AM
To: Doug Daniels <doug@danielslegal.com>
Cc: Ron McLemore <RMcLemore@DeBary.org>; Eric Frankton <EFrankton@DeBary.org>; Kurt Ardaman <ardaman@fishbacklaw.com>
Subject: RE: Public Record Requests

Doug and Mr. Johnson:

I have directed this email to Doug as a precaution to ensure that I comply with Rule 4-4.2 of the Florida Rules of Professional Conduct regarding communication with a person represented by counsel. I ask that Doug forward this email to Mr. Johnson.

The City Attorney's Office has been asked to follow up on this matter to provide clarification. On or about August 30, 2016, City Records Manager Eric Frankton sent an email and letter to Mr. Johnson requesting the turnover of all public records in Mr. Johnson's possession in accordance with Section 119.021(4), Florida Statutes, which provides:

119.021 Custodial requirements; maintenance, preservation, and retention of public records.—

...

(4)(a) Whoever has custody of any public records shall deliver, at the expiration of his or her term of office, to his or her successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by him or her in the transaction of official business.

(b) Whoever is entitled to custody of public records shall demand them from any person having illegal possession of them, who must forthwith deliver the same to him or her. Any person unlawfully possessing public records must within 10 days deliver such records to the lawful custodian of public records unless just cause exists for failing to deliver such records.



A demand for the turnover of public records under Section 119.021(4) is distinct from a public records request made in accordance with Section 119.07, which authorizes the charging of a reasonable fee. I am not aware of any statutory provision that would authorize Mr. Johnson to require the City to pay a fee as a condition of turning over public records as required by Section 119.021(4).

Sincerely,

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§§ PUBLIC RECORDS NOTICE: The City of DeBary is governed by the State of Florida public records law. This means that the information we receive online including your e-mail address might be disclosed to any person making a public records request. If you have any question about the Florida public records law refer to Chapter 119 Florida Statutes. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing. §§