



KATHLEEN JENNINGS
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CIVIL DIVISION (302) 577-8400
CRIMINAL DIVISION (302) 577-8500
DIVISION CIVIL RIGHTS & PUBLIC TRUST (302) 577-5400
FAMILY DIVISION (302) 577-8400
FRAUD DIVISION (302) 577-8600
FAX (302) 577-2610

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF DELAWARE

Attorney General Opinion No. 25-IB62

December 15, 2025

VIA EMAIL

John Reiss
jlireiss@comcast.net

RE: FOIA Petition Regarding the Town of Blades

Dear Mr. Reiss:

We write in response to your correspondence dated November 21, 2025, alleging that the Town of Blades violated Delaware's Freedom of Information Act, 29 *Del. C.* §§ 10001-10008 ("FOIA"). We treat this correspondence as a Petition for a determination pursuant to 29 *Del. C.* § 10005 of whether a violation of FOIA has occurred or is about to occur. As discussed more fully herein, we determine that the Town violated FOIA by failing to meet its burden to demonstrate it answered your records request as required by FOIA.

BACKGROUND

The Petition alleges that on October 28, 2025, you submitted a FOIA request to the Town seeking emails between councilmembers concerning the proposed tax increase. You provided a copy of the Town Administrator's response indicating that your request had been received and forwarded to the Mayor. You contend that the Town violated FOIA by failing to respond to this request. This Office requested a response to the Petition from the Town, but a response was not received.

DISCUSSION

Delaware's FOIA law "was enacted to ensure governmental accountability by providing Delaware's citizens access to open meetings and meeting records of governmental or public bodies, as well as access to the public records of those entities."¹ FOIA requires that citizens be provided reasonable access to and reasonable facilities for the copying of public records.² Public bodies must respond to a request "as soon as possible, but in any event within 15 business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived."³

The public body has the burden of proof to justify its denial of access to records and to otherwise demonstrate compliance with FOIA.⁴ In certain circumstances, a sworn affidavit may be required to meet that burden.⁵ In this instance, as the Town has not provided a response to this Petition demonstrating that it responded to this request as required by FOIA, we are compelled to find the Town violated FOIA. It is recommended that the Town provide a response to this request in compliance with 29 *Del. C.* § 10003.

CONCLUSION

Based on the foregoing, we conclude that the Town violated FOIA by failing to meet its burden to demonstrate it answered your records request as required by FOIA.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

¹ *Judicial Watch, Inc. v. Univ. of Del.*, 267 A.3d 996, 1004 (Del. 2021).

² 29 *Del. C.* § 10003(a).

³ 29 *Del. C.* § 10003(h).

⁴ 29 *Del. C.* § 10005(c).

⁵ *Judicial Watch, Inc.*, 267 A.3d at 1008-1012.

Approved:

/s/ Patricia A. Davis

Patricia A. Davis
State Solicitor

cc: Michael R. Smith, Attorney for the Town of Blades