August 14, 2020

Catherine Englebrecht

True the Vote President

PO Box 3109

Houston, TX 77253-3109

**Re: FOIA Records Request for Electronic Election Tabulation**

Dear Ms. Englebrecht:

The Township is in receipt of your corrected Freedom of Information Act request dated August 7, 2020 and received by the Township on August 10, 2020 (effective August 11, 2020 pursuant to the FOIA), as follows:

“Please produce copies of the following items from the Primary Election of 2020.

1. A copy of all election reports related to vote tabulation.
2. A listing of all voting equipment, including brand, model, and location used.
3. Pictures or scanned images of the original tapes from any voting machines used.
4. Each and every electronic or digital ballot image file created, held, or used by you, your office, or assigns, including any and all metadata associated with each image and/or file.
5. Each and every ballot image file’s filename, unchanged from the file name generated by the voting system and linked to the corresponding cast vote record’s file name.
6. Each and every cast vote record file created, held, or used by you, your office, or assigns, including any and all metadata associated with each cast vote record.
7. Each and every cast vote record file’s filename, unchanged from the filename generated by the voting system, linked to the corresponding ballot image file’s filename, and provided in the format or formats in which they are maintained by the voting system and exported or exportable from the voting system.
8. Any and all computer event logs and computer logs (including “activity logs” and “FIM (file integrity monitoring) logs”) for each individual voting machine in your county and for any computer involved in aggregating, storing, communicating, uploading, or serving as a repository for votes in the 2020 Primary Election.
9. Any and all upload and download logs for all external applications and databases involved in the hosting, aggregating, tabulation, and/or serving as a repository for the official and/or unofficial results in the 2020 Primary Election.
10. Because the integrity of the production is partially dependent on ensuring limited access to such computers/machines,  please identify the steps taken to ensure limited access to such machines and,
11. If you believe restricting access is not required or possible, please state the reasons for such positions/opinions and a list of persons to whom and how access was granted.
12. If any documents are withheld or redacted from production in whole or in part, please provide an exemption log index of each record or category of records that have been withheld or redacted, the explicit statutory citation that allows the exemption of the records, and a brief explanation of how the statutory exemption applies to the records.”

The Michigan FOIA defines a “public record” as “a writing owned, used, in the possession of or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software”. Your request has been granted in part and denied in part. As to each item you have requested, the Township responds as follows:

1. One (1) such record exists which is attached.
2. No such records exist in possession of the Township.
3. Attached are public records which are in the possession of the Township and responsive to your request.
4. No such records exist in possession of the Township.
5. No such records exist in possession of the Township.
6. No such records exist in possession of the Township.
7. No such records exist in possession of the Township.
8. No such records exist in possession of the Township.
9. No such records exist in possession of the Township.
10. No such records exist in possession of the Township.
11. This is not a request for the disclosure of a certain public record, and therefore no such records exist in possession of the Township.
12. No such records exist in possession of the Township.

The Township certifies that it does not have certain records requested, as stated above.

Because the Township has denied your FOIA request, we provide your appeal rights as established in Section 10 of the FOIA reprinted herein:

**“**Sec. 10.

  (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

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

  (b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

  (2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

  (a) Reverse the disclosure denial.

  (b) Issue a written notice to the requesting person upholding the disclosure denial.

  (c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

  (d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

  (3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

  (4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

  (5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

  (6) 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 this section, the court shall 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 shall be assessed against the public body liable for damages under subsection (7).

 (7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of $1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of $1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall 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”.

There is no charge associated with this request as the cost to respond electronically was de minimis.

The Township’s FOIA forms are provided on its website at [www.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_](http://www.___________________).

Sincerely,

Township FOIA Coordinator

Enclosures