



**U.S. Department of Justice**

Office of Legal Counsel

---

*Washington, D.C. 20530*

June 25, 2013

Matt Ehling  
Public Record Media, LLC  
2375 University Ave W., Suite 200  
St. Paul, MN 55114

**Re: FOIA Tracking No. FY12-079**

Dear Mr. Ehling:

This letter further responds to your Freedom of Information Act ("FOIA") request dated April 23, 2012. On March 29, 2013, we responded to your request and indicated that we had identified four records responsive to your request that we are withholding pursuant to FOIA Exemption Five, § 552(b)(5), because they are protected by the deliberative process privilege.

The Office of Information Policy recently forwarded to us a copy of your administrative appeal dated May 28, 2013, which objects to the withholding of these four records. In that appeal, you assert that your request "specifically—and only—sought records that were 'post-decisional' in nature." The four documents discussed in my March 29, 2013 letter are "final opinions" of the Office that address the topics identified in your request, but they are pre-decisional legal advice to Office of Legal Counsel clients. Your April 23, 2012 request expressly sought "final opinions" of the Office, which by their nature are generally pre-decisional, but at the same time stated that the responsive documents should be "post-decisional." Accordingly, in processing our response to your request, we initially sought to reconcile and give full effect to your request by construing it broadly to reach these four records, rather than exclude records that you might potentially view as responsive. Having reviewed the description of the records sought by your request that you provide in your administrative appeal, however, we write to clarify our March 29, 2013 response. To the extent that your request sought only "post-decisional documents" and was not intended to seek any pre-decisional documents, including final opinions of the Office that address the topics identified in your request, we have no responsive records.

Your request is the subject of a pending administrative appeal, but I am required by statute and regulation to inform you of your right to file an administrative appeal. You must submit any administrative appeal within 60 days of the date of this letter by mail to the Office of Information Policy, United States Department of Justice, 1425 New York Avenue, N.W., Suite 11050, Washington, D.C. 20530; by e mail to DOJ.OIP.AdministrativeAppeal@usdoj.gov; or

through OIP's e-portal at <http://www.justice.gov/oip/oip-request.html>. Both the letter and the envelope, or the e mail, should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink that reads "Paul P. Colborn". The signature is written in a cursive style with a long, sweeping underline.

Paul P. Colborn  
Special Counsel

Cc: Office of Information Policy (Reference No. 2013-03590).