

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

WISCONSIN INSTITUTE FOR
LAW AND LIBERTY, INC.
1139 East Knapp Street
Milwaukee, Wisconsin 53202

Plaintiff,

v.

MILWAUKEE PUBLIC SCHOOLS,
5225 West Vliet Street,
Milwaukee, Wisconsin 53208,

Defendant.

HON. KAREN E. CHRISTENSON, BR. 37
CIVIL C

Unclassified

Case Code: 30703

Case No. 14-CV-

SUMMONS

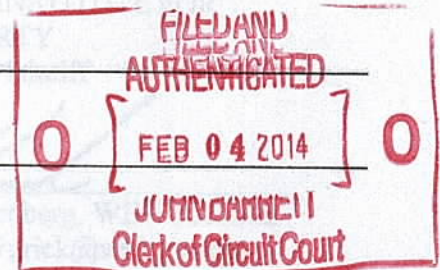
THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 20 days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is: Clerk of Circuit Court, Milwaukee County Courthouse, 901 N. 9th Street, Milwaukee, WI 53233, and to Wisconsin Institute for Law & Liberty, Inc., whose address is: 1139 E. Knapp Street, Milwaukee, WI 53202.

You may have an attorney help or represent you.



If you do not provide a proper answer within 20 days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 4th day of February, 2014.

Respectfully submitted,
WISCONSIN INSTITUTE FOR
LAW & LIBERTY
Attorneys for Plaintiff



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COMPLAINT

This is an action to enforce Wisconsin's Open Records Law, Wis. Stat. §§ 19.31-19.39. State law declares it the public policy of this state that every citizen is presumptively entitled to complete access to the records of state and local government.

Plaintiff Wisconsin Institute for Law & Liberty, Inc. ("WILL"), by its attorneys Richard M. Esenberg, Thomas C. Kamenick, Michael Fischer, Brian W. McGrath, and C.J. Szafrir, as a Complaint against the Defendant, Milwaukee Public Schools ("MPS") alleges and shows to the court as follows:

FACTUAL ALLEGATIONS

1. The Plaintiff, WILL, is a non-stock corporation incorporated under the laws of Wisconsin with a business address of 1139 East Knapp Street, Milwaukee, WI 53202.
2. The Defendant, MPS, is a "school district" as that term is used in Chapters 115 through 121 of the Wisconsin Statutes, and has offices at 5225 West Vliet Street, Milwaukee, WI 53208.
3. MPS is an "authority" as that term is defined in Wis. Stat. § 19.32(1).

4. On November 13, 2013, WILL sent an open records request to MPS via email. A true and accurate copy of that request is attached as Exhibit A.

5. The request asked for the following records:

- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and JCP Construction or any employee or agent of JCP Construction, including but not limited to, James Phelps and Quiana Mosby.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and Martin Luther King Economic Development Corporation or any employee or agent of Martin Luther King Economic Development Corporation, including but not limited to, Welford Sanders.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and KBS Construction Inc. or any employee or agent of KBS Construction Inc., including but not limited to, Dennis Klein.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and Clifton Phelps.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and Jalin Phelps.
- Starting April 1, 2013, all of Superintendent Gregory Thornton's documents, correspondence, and communications relating to the proposed sale of Malcolm X to JCP Construction and KBS Construction Inc.
- Starting April 1, 2013, all of Superintendent Gregory Thornton's documents, correspondence, and communications regarding the establishment of the International Baccalaureate "Middle Years Programme" school.
- Starting April 1, 2013, all of Superintendent Gregory Thornton's documents, correspondence, and communications regarding Dover school (619 E. Dover St).
- Starting April 1, 2013, all documents, correspondence, and communications between School Board President Michael Bonds and JCP Construction or any employee or agent of JCP Construction, including but not limited to, James Phelps and Quiana Mosby.
- Starting April 1, 2013, all documents, correspondence, and communications between School Board President Michael Bonds and Martin Luther King Economic Development Corporation or any employee or agent of Martin Luther King Economic Development Corporation, including but not limited to, Welford Sanders.
- Starting April 1, 2013, all documents, correspondence, and communications between School Board President Michael Bonds and KBS Construction Inc. or any employee or agent of KBS Construction Inc., including but not limited to, Dennis Klein.
- Starting April 1, 2013, all documents, correspondence, and communications between School Board President Michael Bonds and Clifton Phelps.

- Starting April 1, 2013, all documents, correspondence, and communications between School Board President Michael Bonds and Jalin Phelps.
- Starting April 1, 2013, all of School Board President Michael Bonds' documents, correspondence, and communications relating to the proposed sale of Malcolm X to JCP Construction and KBS Construction Inc.
- Starting April 1, 2013, all of School Board President Michael Bonds' documents, correspondence, and communications regarding the establishment of the International Baccalaureate "Middle Years Programme" school.
- Starting April 1, 2013, all of School Board President Michael Bonds' documents, correspondence, and communications regarding Dover school (619 E. Dover St).

6. The individuals referenced in the request are affiliated with 2760 Holdings, LLC, a legal entity created to purchase Malcolm X, an MPS school building that has been empty for six years, located at 2760 North 1st Street in Milwaukee. This Complaint uses "2760 Holdings, LLC" as shorthand to refer to all of these persons and entities.

7. MPS and 2760 Holdings LLC entered into an agreement whereby the City of Milwaukee (which actually owns MPS' buildings) would sell the empty building to 2760 Holdings, LLC for \$2,145,000 and lease part of the building back for an MPS-affiliated school while 2760 Holdings, LLC could develop the other half for commercial and residential purposes. MPS retains the right to repurchase the building for \$1 at the expiration of the lease. A true and accurate copy of a term sheet provided to the Milwaukee Common Council describing the deal is attached as Exhibit B.

8. The deal has been described as a sham transaction, entered into for the purpose of denying the building to St. Marcus Lutheran School, an extraordinarily successful private school participating in the Milwaukee Parental Choice Program. St. Marcus had offered to purchase the long-empty building for \$1 million, using the space to provide quality education to hundreds of Milwaukee children.

9. MPS responded via two letters, both dated November 13, 2013.

10. One letter acknowledged receipt, informed WILL that MPS would comply with statutory obligations and provide a response as soon as practical, and indicated that MPS was “seeking advice from the Office of the City Attorney.” A true and accurate copy of that letter is attached as Exhibit C.

11. The other letter also acknowledged receipt and contained information about potential fees MPS might charge to WILL. A true and accurate copy of that letter is attached as Exhibit D.

12. On November 27, 2013, two weeks after the original request, WILL followed up with MPS asking for an estimate of when the records request would be fulfilled.

13. On November 27, 2013, MPS responded, indicating that MPS was waiting for advice from the City Attorney.

14. A week later, on December 2, 2013, WILL again followed up, reminding MPS of their statutory duty to “*as soon as possible and without delay, either fill the request or notify the requester of the authority’s determination to deny the request*” (emphasis added). A true and accurate copy of an email chain encompassing emails between C.J. Szafir, a WILL employee, and MPS from November 13, 2013 to December 6, 2013 is attached as Exhibit E.

15. On December 6, 2013, MPS sent WILL a letter dated December 5, 2013, providing a few records but largely denying WILL’s request. A true and accurate copy of that letter is attached as Exhibit F.

16. MPS produced the following items:

- A “Martin Luther King Jr. Drive 2013 Visioning Charette Report”;
- A “notice published by the Superintendent seeking proposals for the redevelopment of the [Dover School] site.”
- “Copies of notices sent to the Board as well as e-mails sent to subscribers of the E-Notify system . . . inform[ing] the public of meetings in which the Malcolm X and/or Dover sites would be discussed.”

- “[T]wo Fact Sheets pertaining to Malcolm X”
- “[E]-mails that were transmitted to subscribers of the Electronic School Board system . . . provid[ing] access to a meeting’s agenda, board item summaries, and any documents that were discussed at the meetings.”

17. All other responsive records were withheld.

18. The reason for the denial was given as follows:

After conducting the balancing test, which I am required by law to do, I have determined that the remainder of the responsive records are not subject to disclosure, at this time, for the following reasons:

The exceptions to the requirement of a government body to meet in open session under Wis. Stat. § 19.85 are indicative of public policy and may be used as grounds for denying a public records request if the custodian makes a specific demonstration that there is a need to restrict public access at the time of the request. Wis. Stat. § 19.35(1)(a). One applicable exception to the open meetings law is when competitive bargaining reasons or negotiating the purchase of public properties or the investing of public funds requires a closed session. Wis. Stat. § 19.85(1)(e).

The records that you have requested relate to on-going negotiations or negotiations which the Milwaukee Board of School Directors (Board) may become involved. The responsive records detail negotiation strategy. On November 26, 2013 the City of Milwaukee Common Council voted to approve the sale of the Malcolm X facility to a developer. However, although such sale is authorized by the Common Council, it will not be a “final sale” until the sales agreement is executed by all appropriate parties.

In order to allow the Board to maintain the best negotiation strategy possible, we are withholding the responsive records at this time. To make public the responsive records at this time will endanger the Board’s ability to successfully conclude crucial negotiations now and in the future. This would harm the public interest because of the potential decreased revenue or increased costs relating to various projects. The public interest in ensuring the best negotiation strategy possible, in my opinion, outweighs the public’s right to inspect or to have access to the withheld records at this time. Consequently, I am denying your request.

19. MPS also indicated that “[s]hould a contract/s be executed by all appropriate parties, the records that you have requested that pertain to the contract/s will be considered public. You may file a new request for these records at that time.”

20. On December 17, 2013, WILL sent a letter to MPS objecting to its denial. In particular, WILL noted that public accounts of the deal reported that agreement had been reached between MPS and 2760 Holdings, LLC, and only the details remained to be worked out. If that were the case, the letter argued, then making public communications between the parties could not negatively affect the negotiations – “Information that has been shared with Holdings is, by definition, not private and cannot reveal anything about MPS’ position that has not already been revealed to its transactional opposite.” A true and accurate copy of that letter is attached as Exhibit G.

21. On December 19, 2013, MPS responded. MPS’ letter indicated that its response to the November 13, 2013 request was based on the facts as they existed as of the date of the letter, and that some of the facts relevant to WILL’s request had changed. MPS indicated that it would “process your December 17, 2013, [sic] as a renewal of your November 13, 2013, request” and “provide a response to your letter as soon as practicable and without delay.” A true and accurate copy of that letter is attached as Exhibit H.

22. WILL sent follow-up emails to MPS on January 8, 2014 and January 15, 2014, which went unanswered. WILL also sent a follow-up email to MPS on January 20, 2014. An email chain encompassing those emails is attached as Exhibit I.

23. On January 20, 2014, MPS responded via email to WILL, indicating that MPS had “not completed the search for records associated with your request,” but providing no estimate of when the work would be completed. A true and accurate copy of that email is attached as Exhibit J.

24. As of the date of this Complaint, MPS has neither fulfilled the December 17, 2013 request nor denied it.

**FIRST CAUSE OF ACTION – VIOLATION OF § 19.35(1);
Illegal Refusal to Produce Records in Response to November 13, 2013 Request**

25. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

26. Under Wis. Stats. §19.31, it is the declared public policy of this state that every citizen is entitled to the greatest possible information regarding the affairs of government. The statute provides that “[t]he denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied, establishing a presumption of complete public access to government records, consistent with the conduct of governmental business.”

27. Wis. Stats. § 19.35(1)(a) and (b) provide that “any requester has a right to inspect any record” and “to make or receive a copy of a record.”

28. Subject to certain qualifications, Wis. Stats. §19.32(2) defines a record as “any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or kept by an authority.”

29. On December 6, 2013, MPS refused to produce copies or permit inspection of requested records, claiming a necessity to ensure the best negotiating strategy.

30. However, WILL did not request internal communications within MPS (or the City of Milwaukee), but communication between parties on opposite sides of the negotiating table. As MPS’ letter acknowledges, the sale had already been approved, eliminating any potential competitors who might benefit from learning what MPS and 2760 Holdings, LLC had discussed. MPS’ bargaining position *vis a vis* 2760 Holdings, LLC is not affected by disclosing communications of which 2760 Holdings, LLC is already aware.

31. Therefore, Defendant has violated the Open Records Law and Wis. Stats. §19.35(1) by withholding the requested records and denying the records requests.

32. “If an authority withholds a record or a part of a record . . . after a written request for disclosure is made, the requester may . . . bring an action for mandamus asking a court to order release of the record.” Wis. Stat. § 19.37(1), (a).

**SECOND CAUSE OF ACTION – VIOLATION OF § 19.35(4);
Illegal Delay in Producing Records in Response to December 17, 2013 Request**

33. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

34. Under Wis. Stats. §19.35(4)(a), “[e]ach authority, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requestor of the authority’s determination to deny the request in whole or in part and the reasons therefor.”

35. The Attorney General of Wisconsin has opined that “ten working days generally is a reasonable time for responding to a simple request for a limited number of easily identifiable records.” Wis. Dep’t of Justice, Attorney General Van Hollen, *Wisconsin Public Records Law Wis. Stat §§ 19.31-19.39 Compliance Outline*, September 2012 (“Compliance Guide”) at 13. “Requests for public records should be given high priority.” *Id.*

36. “[W]hat constitutes a reasonable time for a response by an authority ‘depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations.’ Accordingly, whether an authority is acting with reasonable diligence in a particular case will depend upon the totality of the circumstances surrounding the particular request.” *WIREData, Inc. v. Village of Sussex*, 2008 WI 69, ¶56, 751 N.W.2d 736 (quoting the Department of Justice’s *amicus curiae* brief).

37. An authority must either comply with or deny an open records request; offering to comply at some unidentified time in the future is not authorized by law. *WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 457-58, 555 N.W.2d 140 (Ct. App. 1996).

38. MPS agreed to treat WILL's December 17, 2013 letter as a renewal of WILL's November 13, 2013 record request, taking into account facts that had changed since the first request.

39. As of the date of this Complaint, 49 days have passed and MPS has neither fulfilled nor denied the record request.

40. MPS' most recent response, on January 20, 2014, indicated that MPS intended to comply at some indefinite future time.

41. Therefore, Defendant has violated the Open Records Law and Wis. Stats. §19.35(4) by failing to fulfill or deny the record request "as soon as practicable and without delay."

42. "If an authority . . . delays granting access to a record or part of a record after a written request for disclosure is made, the requester may . . . bring an action for mandamus asking a court to order release of the record." Wis. Stat. § 19.37(1), (a).

RELIEF REQUESTED

WHEREFORE, the Plaintiff demands a judgment of mandamus against the Defendant under Wis. Stats. §19.37(1):

1. Compelling the Defendant to immediately produce the requested records;
2. Declaring the Plaintiff's rights and limiting the Defendant's conduct with respect to the requested records;

3. Awarding the Plaintiff reasonable attorney fees, damages of not less than \$100, and other actual costs under Wis. Stats. §19.37(2), and;

4. Awarding such other relief as the Court deems appropriate.

Dated this 4th day of February, 2014.

Respectfully submitted,
WISCONSIN INSTITUTE FOR
LAW & LIBERTY
Attorneys for Plaintiff



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Richard M. Esenberg
Michael Fischer
Brian W. McGrath
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Charles J. Szafir III

Executive Director
Stacy A. Stueck

November 13, 2013

Milwaukee Public Schools Administration Building
5225 W. Vliet Street
Milwaukee, WI 53208

Re: Open Records Request

This letter is a request for the following records, made under Wisconsin's Open Records Law, Wis. Stat. §§ 19.31-19.39:

- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and JCP Construction or any employee or agent of JCP Construction, including but not limited to, James Phelps and Quiana Mosby.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and Martin Luther King Economic Development Corporation or any employee or agent of Martin Luther King Economic Development Corporation, including but not limited to, Welford Sanders.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and KBS Construction Inc. or any employee or agent of KBS Construction Inc., including but not limited to, Dennis Klein.
- Starting April 1, 2013, all documents, correspondence, and communications between Superintendent Gregory Thornton and Clifton Phelps.
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- Starting April 1, 2013, all of Superintendent Gregory Thornton's documents, correspondence, and communications regarding Dover school (619 E. Dover St).
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- Starting April 1, 2013, all of School Board President Michael Bonds' documents, correspondence, and communications regarding the establishment of the International Baccalaureate "Middle Years Programme" school.
- Starting April 1, 2013, all of School Board President Michael Bonds' documents, correspondence, and communications regarding Dover school (619 E. Dover St).

These requests are severable. If a copy of one or more of the documents is ready for pickup or mailing before any other requested document is anticipated to be ready for pickup or mailing, please inform us immediately and we will pick up whatever is available as soon as it is available.

The law requires you to respond to this request "as soon as practicable and without delay." Wis. Stat. § 19.35(4)(a).

Please be aware that the Open Records Law defines "record" to include information that is maintained on paper as well as electronically, such as data files and unprinted emails. Wis. Stat. § 19.32(2).

If these records are stored electronically, please provide them in that electronic format via email to cj@will-law.org. Otherwise, they may be mailed to the address above.

Please also be aware that the Open Records Law "shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest, and only in an exceptional case may access be denied." Wis. Stat. § 19.32(1). If you deny my request, the law requires you to do so in writing and state what part of the law you believe entitles you to deny my request. Wis. Stat. § 19.35(4)(a).

The Open Records Law states that you may charge for "the actual, necessary and direct cost" of locating records, if this exceeds \$50, for photocopies, and for postage. Wis. Stat. § 19.35(3). Please advise me before processing this request if the total cost will exceed \$50.

If you are not the records custodian for this information, please forward this request to the appropriate person. Also, please let me know if I can clarify or refine this request.

Sincerely,

CJ Szafir
Education Policy Director & Associate Counsel
Wisconsin Institute for Law & Liberty
cj@will-law.org

(ATTACHMENT 1) ACTION ON A REQUEST FOR A CLOSED SESSION TO DISCUSS STRATEGIES REGARDING THE POTENTIAL SALE OR LEASE OF THE PROPERTY LOCATED AT 2760 NORTH 1ST STREET, MILWAUKEE, WISCONSIN (THE FORMER MALCOLM X ACADEMY) AND FOR AUTHORIZATION TO SUBMIT A REVISED REQUEST TO THE CITY TO SELL THAT PROPERTY

TERM SHEET – REVISED BOARD ITEM
FOR SALE OF PARCEL AT 2760 NORTH 1ST STREET
 (Former Malcolm X Middle School)

Property: Former Malcolm X Academy Middle School at 2760 North 1st Street in the Harambee Neighborhood. Constructed in 1960-61, the building has 170,948 SF on three levels and includes about 57 classrooms, library, cafeteria, an NBA-size gymnasium, smaller gyms and an auditorium. The school is situated on a full City block with 4.92 acres and has a large paved playground and parking area. Site challenges include a steep slope that drops approximately 30 feet from the highpoint at the corner of Palmer and Hadley to the low point at 1st and Center Street.



Buyer: 2760 Holdings, LLC, a limited liability company formed by James Phelps of JCP Construction, Inc. Mr. Phelps previously worked with Common Bond in 2011 on possible redevelopment of this property. He was also involved with development of scattered site affordable housing in the Lindsey Heights neighborhood as well as construction of the MSOE soccer field and the Moderne apartments. Mr. Phelps plans to work with KBS Construction on the project. KBS recently developed or performed work on the Global Water Center, UWM dormitories, Journey House-Longfellow School, North End Apartments.

The parties expect to involve the Martin Luther King Economic Development Corporation as a team member. Welford Sanders is the Executive Director of the non-profit development corporation that has been active in neighborhood development since 1999. MLK EDC's major project includes four phases of

King Drive Commons, a housing and commercial revitalization effort in a 14-block area of the Harambee neighborhood.

Project: Redevelopment of the school and site as a multi-use project envisioned by the MPS Building Usage Evaluation and the UWM Community Design Solutions King Drive Visioning Charette (summary attached). Upon sale, the developer would obtain a mix of financing available to private parties – New Market Tax Credits, WHEDA allocated Low Income Housing Tax Credits (LIHTC) and/or bond financing – and perform the following tasks:

- Demolish unneeded sections of the current building – approximately 30,000 SF along 1st.
- Create a two to three unit condominium to accommodate the various uses and outline the terms for operation and maintenance of shared uses.
- Remodel the school for lease to MPS for a new middle-school International Baccalaureate program.
- Apply for a WHEDA tax credit allocation to develop a mixed-use building along Center Street that would offer affordable family or intergenerational housing and provide space for needed commercial businesses. An initial application is expected to be made in February 2014. If LIHTC financing is not obtained, Buyer shall pursue other financing mechanism.
- Coordinate use of community building features – the gymnasiums and auditorium – by the community during non-school hours through partnerships with the MLK Economic Development Corporation and community groups.
- Install site features including parking, playgrounds and gardens for shared use with MPS, housing residents and the community through the operating agreement in the condominium documents.
- Make temporary landscape improvements to the mixed-use site after demolition and prior to construction of the mixed-use component.

Final building designs will be subject to approval by the City of Milwaukee and will require Common Council approval of Detailed Planned Development zoning. The property is currently being rezoned to General Planned Development to allow Buyer to submit a LIHTC application to WHEDA in February 2014.

Purchase Price

The Buyer will pay \$15.00/SF for the space that will remain for school use after the partial demolition – approximately 143,000 SF for a price of \$2,145,000. Of the price, \$300,000 will be allocated to site preparation and demolition expenses that will be the Buyer's responsibility and reflects the effective price for the future mixed-use building site.

Closing Terms

Final terms will be outlined in an Offer to Purchase to be executed within 30 days of sale confirmation by the Milwaukee Common Council. Basic terms will be standard items in a commercial offer to purchase and will include, but are not limited to: conveyance on an "as is, where is" basis, customary prorations and credits, including a \$10,000 Right to Negotiate Fee paid by Buyer, and Buyer payment of all title insurance costs and closing costs. Closing shall occur within 60 days following execution of the offer to purchase. The deed will be subject to the following deed restrictions:

1. The property shall not be used for any use that has the effect of diminishing the annual average number of pupils enrolled in Milwaukee Public Schools, as determine pursuant to Wis. Stat. §121.05;
2. Should all or part of the property, except that portion occupied by MPS, become tax exempt, Buyer or its successors and assigns shall pay a Payment in Lieu of Taxes ("PILOT") based on the value of the property times the tax rate for MPS and the City of Milwaukee;
3. MPS and the City of Milwaukee shall have a Right of First Refusal to purchase all or part the property if the property or any part thereof shall be offered for sale during Buyer's ownership of

the property. This right would not apply to a conveyance to a tax-exempt entity that may be created by Buyer to take ownership of the school condominium during the lease period or other similar conveyances or rights granted in connection with LIHTC or other project financing, provided that all or some of the principals are still parties to the new entities.

The offer will also include performance requirements regarding project financing and construction to ensure timely performance by the Buyer.

MPS School Renovation and Lease

Buyer shall contract for remodeling the school condominium and shared amenities (except for asbestos abatement by MPS) according to specifications developed by MPS. Buyer shall competitively bid the majority of construction items such as mechanicals, masonry, electrical, fire protection, limited asbestos abatement, roof, replacement paving. Buyer is a general contractor and will self perform carpentry, concrete and partial demolition activities. MPS expects to retain an outside consultant to verify the reasonableness of the costs of self-performed activities and will require that all self performed costs not exceed a reasonable threshold. Buyer shall comply with prevailing wage requirements and the HUB, COIN and Student Participation requirements of MPS (see attachment).

Upon completion of school remodeling as certified by MPS staff, MPS shall lease the premises on a triple net basis for a term based on the Buyer's financing, but for a 10-year minimum. Rent is expected to be based on amortization of school remodeling expenses at an interest rate equivalent to developers' cost of funds, not to exceed 4.0%, of school project expenses and fees and the purchase price allocated to the school portion of the property (\$1,845,000) and payment of any condominium fee related to shared items. A final lease will be presented to the Board of School Directors prior to execution.

MPS shall purchase the school condominium unit at the end of the lease term for \$1.00, or other amount that ensures payment of unamortized school project costs and fees. MPS also will have the right to purchase the school condominium at any time during the lease term upon payment of all unamortized expenses related to the school renovation.

Buy Back Option

In the event that Buyer is unable to obtain zoning approval or financing for all or part of the project, MPS will have the option to reacquire all or part of the property. Buyer shall also have a "Put Option" to have the City on behalf of MPS buy back all or part of the property.

School Portion: After one year following closing, the City on behalf of MPS may reacquire the full property if the condominium has not been created for the school portion of the property. Buyer shall be repaid its purchase price with a price adjustment for any site preparation/demolition costs if Buyer retains the mixed-use portion of the property.

Mixed-Use Component: After three years following closing, the City of Milwaukee, on its own behalf, shall have the right to reacquire the mixed-use portion of the property if Buyer has been unsuccessful in obtaining financing for and has not started construction of the mixed-used component. Buyer shall be reimbursed documented site preparation/demolition costs (estimated at \$300,000).

This Term Sheet does not constitute a binding agreement. The terms set forth herein and other provisions customary of a transaction of this sort shall be incorporated in one or more agreements among MPS, City and Buyer. Approval of the Term Sheet shall provide approval for the execution of all additional Project Documents and instruments necessary to implement the project.



**MILWAUKEE
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Office of Board Governance

5225 W. Vliet St., Room 273, Milwaukee, WI 53208

Phone (414) 475-8284 ■ Fax (414) 475-8071

November 13, 2013

Wisconsin Institute for Law & Liberty, Inc.
Mr. Charles J. Szafir
1139 E. Knapp Street
Milwaukee, WI 53202-2828

Dear Mr. Szafir:

I am in receipt of your public records request dated and received by the Office of Board Governance on November 13, 2013. This letter is to inform you that I will comply with the statutory obligations and provide a response to your public records request with any and all records subject to disclosure under the law as soon as practicable. I am currently seeking advice from the Office of the City Attorney. A response to your records request will be provided as soon as I receive advice from that office.

Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'I. Melli Wickliff'.

I. Melli Wickliff
Constituent Ombudsperson/
Board Information Officer
Office of Board Governance

jmk



Office of Board Governance

5225 W. Vliet St., Room 273 ■ Milwaukee, WI 53208

Phone: (414) 475-8284 ■ FAX: (414) 475-8071 ■ governance@milwaukee.k12.wi.us

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EXHIBIT D

Office of Board Governance

5225 W. Vliet St., Room 273, Milwaukee, WI 53208
Phone (414) 475-8284 ■ Fax (414) 475-8071

November 13, 2013

Wisconsin Institute for Law & Liberty, Inc.
Mr. Charles J. Szafir
1139 E. Knapp Street
Milwaukee, WI 53202-2828

Dear Mr. Szafir:

This letter is in response to your records request dated and received by the Office of Board Governance on November 13, 2013. We will initiate the search for these records as soon as practicable and without delay.

Pursuant to State Statutes 19.35(3), MPS may charge fees for complying with a records request. Duplicating fees for all responsive records are charged at a rate of \$0.25 (twenty-five) per page and \$1.00 per media unit. Mailing and shipping costs are also charged when applicable. We will also charge a location fee of \$25.34 per hour, with the first \$50.00 waived. Please be aware that pursuant to Wisconsin Statute 19.35(3)(f), MPS requires prepayment for these charges if the total cost exceeds five dollars (\$5.00).

You need not remit any fees at this time. We will provide you with a reasonable estimate of any applicable fees. Upon receipt of our cost estimate, you may then indicate how you would like us to proceed.

If you have any questions regarding the status of your request or the fee schedule, please feel free to contact me at 475-8284.

Sincerely,

A handwritten signature in black ink, appearing to read 'I. Melli Wickliff'.

I. Melli Wickliff
Constituent Ombudsperson/
Board Information Officer
Office of Board Governance

jmk



(C) Letter of Receipt

Office of Board Governance

5225 W. Vliet St., Room 273 ■ Milwaukee, WI 53208
Phone: (414) 475-8284 ■ FAX: (414) 475-8071 ■ governance@milwaukee.k12.wi.us
www.milwaukee.k12.wi.us Click on Milwaukee Board of School Directors

Tom

From: Kawala, Jillain <thomasjx@milwaukee.k12.wi.us>
Sent: Friday, December 06, 2013 11:53 AM
To: CJ Szafir
Cc: Kawala, Jillain
Subject: Your public records request of MPS (1)
Attachments: Final Response.pdf; ENotify mails.pdf; ESB Mails.pdf; Meeting Notices.pdf; Fact Sheets.pdf

Mr. Szafir,

Attached please find our final response regarding your November 13, 2013, request for public records pertaining to the Malcolm X site. As noted in the letter, the responsive records are being transmitted electronically. In addition to our letter, you should also find four other items attached.

The charette report mentioned in our response is a very sizeable document that I've had trouble e-mailing to other requestors. I will attempt to send it under separate cover. *If you do not receive it by the end of business on Friday, please let me know and I will attempt a transmission in a different format.*

Also, for your convenience, the link mentioned in the letter is this one: <http://board.milwaukee.k12.wi.us/>
And the link to the RFP webpage for the Dover site is: <http://city.milwaukee.gov/DoverRFP>.

Jill

Jill M. Kawala
Board Policy Analyst
Milwaukee Public Schools
Office of Board Governance
5225 W. Vliet Street
Milwaukee, WI 53208
Ph: 414-475-8096
Fax: 414-475-8055
thomasjx@milwaukee.k12.wi.us

From: CJ Szafir [mailto:cj@will-law.org]
Sent: Friday, December 06, 2013 11:30 AM
To: Wickliff, Imelda M
Cc: Kawala, Jillain
Subject: RE: Open Records Request

Good morning,

Do you have an update on our 11/13 open records request?

CJ

From: CJ Szafir
Sent: Monday, December 02, 2013 9:53 AM

To: 'Wickliff, Imelda M'
Cc: Kawala, Jillain
Subject: RE: Open Records Request

Good morning,

You are certainly entitled to seek advice of counsel. But, according to state law, you are still required to either “fill the request” or “deny the request” in a timely manner. Otherwise, a public entity could simply delay compliance indefinitely by saying that they are “seeking the advice of counsel.”

Wis. Stat. § 19.35(4)(a) states that “[e]ach authority, upon request for any record, shall, *as soon as practicable and without delay*, either *fill the request* or notify the requester of the authority's determination *to deny the request* in whole or in part and the reasons therefor” (emphasis added). The Attorney General’s Compliance Guide recommends 10 business days as a benchmark for responding to a records request. It has been more than 10 business days since you have received the request.

Even if an authority considers an open records request complex, the request still must be complied with in a timely manner. “[Open records laws] are not always easy statutes with which to comply . . . *A records custodian is required to quickly make difficult decisions*. The penalty for inadequate compliance can be severe; attorney fees can be substantial. But the legislature has decided that this is worth the benefit of openness.” *WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 462 (Ct. App. 1996) (emphasis added).

We look forward to a timely response to our open records request from 11/13.

-CJ

Charles J. Szafir
Associate Counsel and Education Policy Director
Wisconsin Institute for Law & Liberty
1139 E. Knapp Street
Milwaukee, Wisconsin 53202
414-727-6373 (direct) - CJ@will-law.org

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From: Wickliff, Imelda M [<mailto:wickliim@milwaukee.k12.wi.us>]
Sent: Wednesday, November 27, 2013 10:14 AM
To: CJ Szafir
Cc: Kawala, Jillain
Subject: RE: Open Records Request

Dear Mr. Szafir:

Thank you for your email. From my records, Ms. Kawala sent to you the attached letter of acknowledgement and notice that we are seeking the advice of counsel with respect to your most recent public records request. Please advice as to

whether or not you received these communiqués. Once we have received the direction from the Office of the City Attorney our office will proceed with providing the requisite response.

Have a wonderful Thanksgiving.

Sincerely,

I. Melli Wickliff, J.D.

Constituent Ombudsperson/Board Information Officer

Office of Board Governance, Milwaukee Public Schools

Phone: (414) 475-8039

Fax: (414) 475-8071

<http://www2.milwaukee.k12.wi.us/governance>

From: CJ Szafir [<mailto:cj@will-law.org>]

Sent: Wednesday, November 27, 2013 8:26 AM

To: Wickliff, Imelda M

Subject: FW: Open Records Request

FYI. See our email inquiring about the status of the records request. CJ

From: CJ Szafir

Sent: Wednesday, November 27, 2013 8:24 AM

To: 'Kawala, Jillain '

Subject: RE: Open Records Request

Ms. Kawala,

Is there an estimate on when we can expect our records request to be fulfilled? MPS is required to comply with this records request "as soon as practicable and without delay," Wis. Stat. § 19.35(4)(a) and the Attorney General's Compliance Guide recommends 10 business days as a benchmark for responding to a records request. I believe we are right around that benchmark.

Please let me know the status of the request.

Thank you and Happy Thanksgiving,
CJ

Charles J. Szafir

Associate Counsel and Education Policy Director

Wisconsin Institute for Law & Liberty

1139 E. Knapp Street

Milwaukee, Wisconsin 53202

414-727-6373 (direct) - CJ@will-law.org

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From: Kawala, Jillain [<mailto:thomasjx@milwaukee.k12.wi.us>]
Sent: Monday, November 18, 2013 3:15 PM
To: CJ Szafir
Cc: Kawala, Jillain
Subject: RE: Open Records Request

Hello Mr. Szafir,

Yes, our formal letter of acknowledgment was sent by regular mail to your office. We've got it in the works.
Jill

Jill M. Kawala
Board Policy Analyst
Milwaukee Public Schools
Office of Board Governance
5225 W. Vliet Street
Milwaukee, WI 53208
Ph: 414-475-8096
Fax: 414-475-8055
thomasjx@milwaukee.k12.wi.us

From: CJ Szafir [<mailto:cj@will-law.org>]
Sent: Monday, November 18, 2013 8:54 AM
To: Kawala, Jillain ; Governance
Subject: RE: Open Records Request

Good morning, I'm just checking in to see if my request was received and is being processed. -CJ

From: CJ Szafir
Sent: Wednesday, November 13, 2013 12:31 PM
To: thomasjx@milwaukee.k12.wi.us
Cc: governance@milwaukee.k12.wi.us
Subject: Open Records Request

Jill - Please see the attached document regarding an open records request with MPS officials. Because I am traveling, if you need assistance this week, please contact Tom (tom@will-law.org) in our office.

Thank you,
CJ



Charles J. Szafir
Associate Counsel and Education Policy Director
Wisconsin Institute for Law & Liberty
1139 E. Knapp Street
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414-727-WILL (9455)
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Office of Board Governance

5225 W. Vliet St., Room 273, Milwaukee, WI 53208
Phone (414) 475-8284 ■ Fax (414) 475-8071

December 5, 2013

Wisconsin Institute for Law & Liberty, Inc.
Mr. Charles J. Szafir III
1139 E. Knapp Street
Milwaukee, WI 53202-2828

Dear Mr. Szafir:

This letter responds to your request for certain records starting from April 1, 2013. Specifically, you have requested:

- All documents, correspondence, and communications between Superintendent Gregory Thornton and JCP Construction or any employee or agent of JCP Construction, including but not limited to, James Phelps and Quiana Mosby.
- All documents, correspondence, and communications between Superintendent Gregory Thornton and Martin Luther King Economic Development Corporation or any employee or agent of Martin Luther King Economic Development Corporation, including but not limited to, Welford Sanders.
- All documents, correspondence, and communications between Superintendent Gregory Thornton and KBS Construction Inc. or any employee or agent of KBS Construction Inc., including but not limited to, Dennis Klein.
- All documents, correspondence, and communications between Superintendent Gregory Thornton and Clifton Phelps.
- All documents, correspondence, and communications between Superintendent Gregory Thornton and Jalin Phelps.
- All of Superintendent Gregory Thornton's documents, correspondence, and communications relating to the proposed sale of Malcolm X to JCP Construction and KBS Construction Inc.
- All of Superintendent Gregory Thornton's documents, correspondence, and communications regarding the establishment of the International Baccalaureate "Middle Years Programme" school.
- All of Superintendent Gregory Thornton's documents, correspondence, and communications regarding Dover school (619 E. Dover St).
- All documents, correspondence, and communications between School Board President Michael Bonds and JCP Construction or any employee or agent of JCP Construction, including but not limited to, James Phelps and Quiana Mosby.
- All documents, correspondence, and communications between School Board President Michael Bonds and Martin Luther King Economic Development Corporation or any employee or agent of Martin Luther King Economic Development Corporation, including but not limited to, Welford Sanders.
- All documents, correspondence, and communications between School Board President Michael Bonds and KBS Construction Inc. or any employee or agent of KBS Construction Inc., including but not limited to, Dennis Klein.
- All documents, correspondence, and communications between School Board President Michael Bonds and Clifton Phelps.



Office of Board Governance

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- All documents, correspondence, and communications between School Board President Michael Bonds and Jalin Phelps.
- All of School Board President Michael Bonds' documents, correspondence, and communications relating to the proposed sale of Malcolm X to JCP Construction and KBS Construction Inc.
- All of School Board President Michael Bonds' documents, correspondence, and communications regarding the establishment of the International Baccalaureate "Middle Years Programme" school.
- All of School Board President Michael Bonds' documents, correspondence, and communications regarding Dover school (619 E. Dover St).

The public policy in this state is to give the public the greatest amount of access to public records as possible. Wis. Stat. § 19.31. The general presumption is that public records are open to the public unless there is a clear statutory or common law exception. If there is no clear statutory or common law exception the custodian must "decide whether the strong presumption favoring access and disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure." *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 28 (citations omitted). Notwithstanding the presumption of openness, the public's right to access a public record is not absolute. *Journal/Sentinel v. Agerup*, 145 Wis. 2d 818, 822 (Ct. App. 1988).

I am providing access to the following items, which have already been provided to the public:

With respect to the portions of your request that refer to the Martin Luther King Economic Development Corporation, I am providing access to one item, the Martin Luther King Jr. Drive 2013 Visioning Charette Report.

With respect to "documents, correspondence, and communication regarding Dover School (619 E. Dover Street)," I have enclosed one item, a notice published by the Superintendent seeking proposals for the redevelopment of the site. Additional documents, correspondence, and communication regarding the Request for Proposals may be found at <http://city.milwaukee.gov/DoverRFP>.

With further respect to "all...correspondence and communications..." I am providing copies of notices sent to the Board as well as e-mails sent to subscribers of the E-Notify system. Both of these items inform the public of meetings in which the Malcolm X and/or Dover sites would be discussed. These notices have been sent electronically to cj@will-law.org. I am also enclosing two Fact Sheets pertaining to Malcolm X.

With further respect to "all documents..." I am providing access to e-mails that were transmitted to subscribers of the Electronic School Board system. Messages sent by the Electronic School Board provide access to a meeting's agenda, board item summaries, and any documents that were discussed at the meetings. This system may be accessed at <http://board.milwaukee.k12.wi.us/>. At that link is a calendar. Clicking a meeting date on the calendar will bring up the meeting's agenda. All of the numbered items on the agenda are links that connect to the item's summary. Included in the summary is a list of any documents that were presented for that item. Clicking a document title will pull up a copy of the document itself.

For your information, public meetings in which Malcolm X Academy and/or Dover School were discussed were held on:

- | | |
|-------------------|----------------------|
| ○ May 28, 2013 | ○ September 12, 2013 |
| ○ May 30, 2013 | ○ September 26, 2013 |
| ○ July 30, 2013 | ○ October 10, 2013 |
| ○ August 20, 2013 | ○ October 14, 2013 |
| ○ August 29, 2013 | ○ November 1, 2013 |

After conducting the balancing test, which I am required by law to do, I have determined that the remainder of the responsive records are not subject to disclosure, at this time, for the following reasons:

The exceptions to the requirement of a government body to meet in open session under Wis. Stat. § 19.85 are indicative of public policy and may be used as grounds for denying a public records request if the custodian makes a specific demonstration that there is a need to restrict public access at the time of the request. Wis. Stat. § 19.35(1)(a). One applicable exception to the open meetings law is when competitive bargaining reasons or negotiating the purchase of public properties or the investing of public funds requires a closed session. Wis. Stat. § 19.85(1)(e).

The records that you have requested relate to on-going negotiations or negotiations which the Milwaukee Board of School Directors (Board) may become involved. The responsive records detail negotiation strategy. On November 26, 2013 the City of Milwaukee Common Council voted to approve the sale of the Malcolm X facility to a developer. However, although such sale is authorized by the Common Council, it will not be a "final sale" until the sales agreement is executed by all appropriate parties.

In order to allow the Board to maintain the best negotiation strategy possible, we are withholding the responsive records at this time. To make public the responsive records at this time will endanger the Board's ability to successfully conclude crucial negotiations now and in the future. This would harm the public interest because of the potential decreased revenue or increased costs relating to various projects. The public interest in ensuring the best negotiation strategy possible, in my opinion, outweighs the public's right to inspect or to have access to the withheld records at this time. Consequently, I am denying your request.

Should a contract/s be executed by all appropriate parties, the records that you have requested that pertain to the contract/s will be considered public. You may file a new request for these records at that time.

The records that I am providing have been sent electronically to cj@will-law.org. Because these records are maintained electronically, there are no costs associated with this request. With the transmission of these records to you, I will consider your request to be closed.

Pursuant to Wis. Stat. § 19.35(4), my determination denying portions of your request is subject to review by mandamus action under Wis. Stat. § 19.37(1) or upon application to the Wisconsin Attorney General or the Milwaukee County Corporation Counsel.

Very truly yours,



Lynne A. Sobczak, Board Clerk
Director, Office of Board Governance

jmk

NOTICE

Milwaukee Public Schools is requesting proposals for the Redevelopment of the Dover Street Elementary School for Teacher Housing. The scope, proposal requirements and guidelines may be obtained online at the City of Milwaukee Department of City Development's website

<http://city.milwaukee.gov/DoverRFP>

All questions should be submitted via the City of Milwaukee website. No questions will be answered verbally. No verbal information from any source is to be relied upon by any respondent in the development of their response to the RFP. Only questions submitted in writing prior to 12:00 Noon on Friday, November 22, 2013 will be answered. No questions will be answered after that date and time. These responses will be documented by way of addenda, which will be forwarded to all bidders.

Submit all proposals to Mr. John Linn, Manager of Design and Construction, Facilities and Maintenance Services, 1124 North 11th Street, Milwaukee, Wisconsin 53233 no later than 10:00 AM on Tuesday, December 3, 2013.

GREGORY E. THORNTON, Ed.D
Superintendent of Schools

10439548/11-5-12-19-26



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

1139 E. Knapp Street, Milwaukee, WI 53202-2828

414-727-WILL

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www.will-law.org

Richard M. Esenberg
Michael Fischer
Brian W. McGrath
Thomas C. Kamenick
Charles J. Szafir III

Executive Director
Stacy A. Stueck

December 17, 2013

VIA EMAIL: governance@milwaukee.k12.wi.us; sobczala@milwaukee.k12.wi.us

Lynne A. Sobczak
Director of Office of Board Governance
5225 W. Vliet St., Room 273
Milwaukee, WI 53208

Dear Ms. Sobczak:

On November 13, 2013, the Wisconsin Institute for Law & Liberty (WILL) filed an open records request asking MPS for public records regarding the sale of Malcolm X to 2760 Holdings, LLC. On December 5, 2013, you denied the vast majority of our request, declining to produce communications between Superintendent Gregory Thornton or School Board President Michael Bonds and the principals of Holdings LLC. You denied this request because, in your view, the real estate deal between MPS and Holdings was not complete and revealing any communications would “harm the public interest.”

This is a bit surprising. The proposed transaction has been sold to the public as one in which the taxpayers will be held harmless. MPS has said – or at least implied – that there is an agreement for Holdings to assume the cost of renovation of that portion of the building to be used for school purposes and that the rent it would receive for leasing back the “school condominium” to MPS would not exceed that required to amortize the cost of these renovations and the portion of the purchase price allocable to the school portion of the property (i.e., most of it.). MPS would then be able to buy back the school condominium for \$ 1.00.

We understand that in any transaction like this there are details to be worked out. However, your response suggests that the key terms are not fully agreed to and that disclosing certain documents might jeopardize the district’s ability to secure them. If that is not the case – and terms such as those represented in the term sheet submitted to and approved by the Common Council have been agreed to – it is hard to see how release of documents now – while noneconomic terms are being finalized – would damage the public interest.

So, in order for us to assess the merits of your position and determine our next course of action, please answer the following questions:

Did Holdings really offer or agree to purchase and lease back the property on the terms described in the Term Sheet attached to and approved by the Common Council's resolution dated November 14, 2013?

If in fact there is no final deal, is it possible for third parties to bid for the property, potentially improving the deal for city taxpayers and students? In other words, if, as your response suggests, the property is still available, how might one make an offer for the Malcolm X building?

The deal between MPS and Holdings LLC over the selling of Malcolm X was described by Superintendent Gregory Thornton as "probably the best deal in town." How can this be if there is no deal? And if the deal is not done, how can Superintendent Thornton know that the one being negotiated is "the best" – particularly if no one else is given a chance to beat it?

However these questions might be answered, the requested documents must be produced. Even assuming that there is no final agreement on economic terms and disclosure of internal district documents might hamper negotiations, this could not justify the nondisclosure of communications between the district and Holdings. It can hardly damage MPS' negotiations with Holdings to release documents that Holdings has already seen. The only thing disclosure of these documents will do is let the public see what the negotiating parties already know. Your assertion that this will somehow "harm" the public requires explanation.

Remember, the balancing test swings both ways. It requires a strong presumption in favor of disclosure. We are not asking MPS to disclose information that it wishes to keep private lest its negotiating position be weakened. Information that has been shared with Holdings is, by definition, not private and cannot reveal anything about MPS' position that has not already been revealed to its transactional opposite. In the absence of some tangible risk of harm, it is certainly not in the public's interest to have taxpayer resources used to negotiate the sale of a taxpayer-owned building behind closed doors and, according to you, be kept in the dark regarding the details until after the deal is signed. This is particularly so where, as here, the details regarding disposition of the property in question has been a moving target and the "best deal" described to the public is apparently not done.

We urge you to reconsider your decision and promptly send us the communications between Thornton and Holdings LLC, as well as Bonds and Holdings LLC. We look forward to your response by the close of business on December 19, 2013.

Very truly yours,

THE WISCONSIN INSTITUTE FOR LAW & LIBERTY

RICHARD M. ESENBERG

cc: Jill M. Kawala thomasjx@milwaukee.k12.wi.us
I. Melli Wickliff, J.D. wickliim@milwaukee.k12.wi.us
Superintendent Gregory Thornton gthornton@milwaukee.k12.wi.us
School Board President Michael Bonds mbonds@uwm.edu



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Office of Board Governance

5225 W. Vliet St., Room 273, Milwaukee, WI 53208
Phone (414) 475-8284 ■ Fax (414) 475-8071

December 19, 2013

Wisconsin Institute for Law & Liberty, Inc.
Mr. Rick Esenberg
1139 E. Knapp Street
Milwaukee, WI 53202-2828

Dear Mr. Esenberg:

I am in receipt of your December 17, 2013, letter, regarding our December 5, 2013, response to a public records request filed by your organization on November 13, 2013.

In keeping with our standard practice, our answer to the November 13, 2013, request was based on the facts as they existed on the date of WILL's request. Since that time, some of the facts concerning the subject of your request have changed.

In light of that, we will process your December 17, 2013, as a renewal of your November 13, 2013, request. My office has begun the process of reviewing our response and the current status of the negotiations in question. We are also seeking advice from the Office of the City Attorney. A response to your follow up letter, based on the circumstances as they existed on December 17, 2013, will be provided as soon as I receive advice from that office.

It is important to note that, with the holidays approaching, many of the staff that are involved in this matter will be out of the office and unavailable to immediately assist with the review of your request. Please be assured, however, that I will comply with all statutory obligations and provide a response to your letter as soon as practicable and without delay.

Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lynne A. Sobczak".

Lynne A. Sobczak, Board Clerk
Director, Office of Board Governance

jmk

Tom

From: CJ Szafir
Sent: Monday, January 20, 2014 10:01 AM
To: Wickliff, Imelda M (wickliim@milwaukee.k12.wi.us); Kawala, Jillain (thomasjx@milwaukee.k12.wi.us); 'Rutledge, Melanie'
Cc: 'mbonds@uwm.edu'; 'Dr. Gregory Thornton'
Subject: FW: Your public records request of MPS

Hello,

Are the records ready to be picked up today? As explained more thoroughly in our 11/13 open records request, we are seeking the communications between Superintendent Thornton and Holdings LLC about Malcolm X (as well as between President Bonds and Holdings). In addition, any communications over Dover.

My last two emails went unanswered. We are entitled to a timely compliance with our open records request.

-CJ

Charles J. Szafir
Associate Counsel and Education Policy Director
Wisconsin Institute for Law & Liberty
1139 E. Knapp Street
Milwaukee, Wisconsin 53202
414-727-6373 (direct) - CJ@will-law.org

From: CJ Szafir
Sent: Wednesday, January 15, 2014 2:08 PM
To: 'Rutledge, Melanie'; 'thomasjx@milwaukee.k12.wi.us'
Subject: RE: Your public records request of MPS

Hello,

I'm following up from my email a week ago. What is the status of our request? I think we have been more than patient throughout this process.

We hope to hear back from you that the requested records are ready by Monday, 1/20.

Thank you for your cooperation,
CJ

From: CJ Szafir
Sent: Wednesday, January 08, 2014 5:04 PM
To: 'Rutledge, Melanie'; 'thomasjx@milwaukee.k12.wi.us'
Subject: FW: Your public records request of MPS

Good evening – Hope the holidays treated you well. I wanted to reconnect to follow-up from your 12/19 letter – in addition to my conversation with Attorney Rutledge before the holidays.

It is my understanding that, according to your letter, you would process our 11/13 request again starting on 12/17. We appreciate the cooperation. Do you have an update on the request or a timetable for compliance?

-CJ

Charles J. Szafir
Associate Counsel and Education Policy Director
Wisconsin Institute for Law & Liberty
1139 E. Knapp Street
Milwaukee, Wisconsin 53202
414-727-6373 (direct) - CJ@will-law.org

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From: Stacy
Sent: Thursday, December 19, 2013 4:22 PM
To: Rick; Michael Fischer; Brian W. McGrath; Tom; CJ Szafir
Subject: FW: Your public records request of MPS

Received today at 4:05.

Stacy

From: Kawala, Jillain [<mailto:thomasjx@milwaukee.k12.wi.us>]
Sent: Thursday, December 19, 2013 4:04 PM
To: Stacy
Cc: Wickliff, Imelda M; Thornton, Gregory E; mbonds@uwm.edu; Kawala, Jillain
Subject: Your public records request of MPS

Ms. Stueck,

Attached is a formal acknowledgment of the December 17, 2013, letter signed by Mr. Esenberg, which you e-mailed to our office.

A copy will also be sent via regular mail to Mr. Esenberg since I have no e-mail address for him.

Thank you,
Jill

Jill M. Kawala
Board Policy Analyst
Milwaukee Public Schools
Office of Board Governance
5225 W. Vliet Street
Milwaukee, WI 53208
Ph: 414-475-8096
Fax: 414-475-8055

thomasjx@milwaukee.k12.wi.us

From: Stacy [<mailto:Stacy@will-law.org>]

Sent: Tuesday, December 17, 2013 12:22 PM

To: Governance; Sobczak, Lynne A

Cc: Kawala, Jillain ; Wickliff, Imelda M; Thornton, Gregory E; mbonds@uwm.edu

Subject: WILL Letter to MPS

Attached please find a letter from WILL to the Office of Board Governance regarding the rejection of WILL's Open Records Request regarding Malcolm X.

Thank you for your attention.

Stacy

Tom

From: Wickliff, Imelda M <wickliim@milwaukee.k12.wi.us>
Sent: Monday, January 20, 2014 8:51 PM
To: CJ Szafir
Subject: Open Records Request Status Update (Szafir)

Dear Mr. Szafir:

Thank you for your email. The Office of Board Governance, in conformance with the law, has been working diligently with the MPS Administration to reevaluate your request. Because of the breadth of the records sought, many offices across the district are involved in this search for records. Your request, like all others we receive, is incorporated into staff's normal course of business and processed accordingly. Although your original request was filed in November (received by OBG on November 13, 2013) that request was responded to and closed out on December 5, 2013. As you are aware, your new request for reconsideration was received by OBG on December 17, 2013 and thereafter on December 19, 2013 we remitted a letter acknowledging receipt of your request for reconsideration. With the holiday along with the district being closed for two days due to extreme weather conditions, we have not completed the search for records associated with your request.

Please be advised, as with all requests, wherein records are located, we will be remitting an invoice for payment, which may include both a location fee and/ duplication costs. Once such fee is paid then records would be released. Nonetheless, as of today we have not reached this stage of processing the request.

We remain dedicated to responding to your request as soon as possible and without delay, in alignment with the spirit the Wisconsin Open Records Law. I am reachable at [414-475-8039](tel:414-475-8039) with remaining questions or concerns.

Sincerely,

I. Melli Wickliff
Board Information Officer / Constituent Ombudsperson
Office of Board Governance