



Freedom of Information Act (FOIA) Definitions and Requirements

Definitions:

FOIA Coordinator	The individual responsible for receiving and processing requests and for approving denials as appropriate, for Saginaw County Road Commission.
Public Body	A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.
Public Record	A writing prepared, 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.
Writing	Handwriting, typewriting, printing, photo stating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or punched cards, discs, or other means of recording or retaining meaningful content.

Requirements:

- A person has a right to inspect, copy, or receive copies of a Public Record, if he or she provides the Public Body's FOIA Coordinator with a written request that describes the Public Record sufficiently to enable the Public Body to find the Public Record.
- A request by an individual (other than someone who qualifies as indigent) must include the requesting person's name, address, and contact information (i.e., valid telephone number or electronic mail address). If the request is made by a person other than an individual, it must include the complete name, address, and contact information of the person's agent who is an individual.
- An employee of a Public Body who receives a written request for a Public Record is required to promptly forward the request to the FOIA Coordinator.
- A written request made by facsimile, e-mail, or other electronic transmission is considered received by a Public Body's FOIA Coordinator one business day after the electronic transmission is made. If a written request is sent by e-mail and delivered to the Public Body's spam or junk-mail folder, the request is considered received one day after the Public Body first becomes aware of the written request. The Public Body must note in its records both the time a written request is delivered

- to it spam or junk-mail folder and the time the Public Body first becomes aware of that request.
- Unless otherwise agreed to in writing by the person making the request, the Public Body must respond to a written request for a Public Record within *five business days after receiving the request*, by doing one of the following:
 - Granting the request;
 - Issuing a written notice denying the request;
 - Issuing a written notice granting the request in part and denying the request in part; or,
 - Issuing a notice requesting an additional 10 business days in which to respond to the request. A Public Body shall not issue more than one notice of extension for a particular request.
 - Before issuing a denial or partial denial, Members should consult with MCRCSIP and legal counsel. Additionally, if a FOIA request appears calculated to obtain information from a Member pertaining to actual or threatened potential litigation, MCRCSIP should be immediately notified and legal counsel consulted before responding.
 - A failure to respond constitutes a denial.
 - A written denial must contain an explanation of the basis for the exemption or, if applicable, a certification that the Public Record being requested does not exist within the Public Body under the name given by the requestor or by another name reasonably known to the Public Body. The denial must provide a description of the Public Record that is being withheld or the information on the Public Record that is redacted, if a redaction is made. The denial must also contain a full explanation of the requesting person's right to appeal the denial to the head of the Public Body or seek judicial review.
 - If a Public Record contains both exempt and non-exempt material, the Public Body must separate them and make the non-exempt material available for examination and copying.
 - The Public Body has a responsibility to provide reasonable facilities during normal business hours so that a requestor may inspect records and take notes. A Public Body may make reasonable rules necessary to prevent excessive and unreasonable interference with the discharge of its function. A Public Body must protect Public Records from loss, unauthorized alteration, mutilation, or destruction.
 - The Public Body's response must be electronically mailed, delivered by facsimile, or delivered by first-class mail, as stipulated by the person making the request. This provision is not applicable if the Public Body lacks the technological capacity to provide an electronically mailed response.
 - A Public Body is not required to make a compilation, summary, or report of information, or create a new public record.

- A Public Body must, upon written request, furnish a requesting person a certified copy of a Public Record.
- A FOIA Coordinator must keep a copy of all written requests for Public Records on file for no less than one year.
- Within 10 business days after receiving a written appeal concerning a disclosure denial, the head of a Public Body must do one of the following:
 - Reverse the disclosure denial;
 - Issue a written notice to the requester upholding the disclosure denial;
 - Reverse the disclosure denial in part and issue a written notice to the requester upholding the disclosure denial in part; or,
 - 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. Only one notice of extension for a particular written appeal may be issued.
- A board that is the head of a Public Body is not considered to have received a written appeal until the first regularly scheduled meeting of that board following submission of the written appeal.
- A Public Body must establish procedures and guidelines to implement the FOIA and must create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the Public Body and explaining how to understand a Public Body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal.



Freedom of Information Act (FOIA)
 Exempt Records (MCL 15.243)

Numerous records are exempt from disclosure under the FOIA. The main categories of exemption are as follows:

Section of FOIA	Description of Exemption
Section 13(l)(a)	Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
Section 13(l)(d)	Records or information specifically described and exempted from disclosure by statute.
Section 13(l)(f)	Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing government policy if: <ul style="list-style-type: none"> (i) The information is submitted upon a promise of confidentiality by the Public Body. (ii) The promise of confidentiality is authorized by the chief administrative officer of the Public Body or by an elected official at the time the promise is made. (iii) A description of the information is recorded by the Public Body within a reasonable time after it has been submitted, maintained in a central place within the Public Body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a government contract, license, or other benefit.
Section 13(1)(o),	Information or records subject to attorney-client privilege,
Section 13(l)(h)	Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.
Section 13(1)(i)	A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.
Section 13(l)(i)	Appraisals of real property have to be acquired by the Public Body until either of the following occurs: <ul style="list-style-type: none"> (i) An agreement is entered into.

	(ii) Three years have elapsed since the making of the appraisal, unless litigation is relative to the acquisition has not yet terminated.
Section 13(1)(k)	Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under the FOIA outweighs the public interest in nondisclosure.
Section 13(1)(l)	Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103.
Section 13(1)(m)	Communications and notes within a Public Body or between Public Bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the Public Body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of Public Bodies clearly outweighs the public interest in disclosure. "Determination of policy or action" includes a determination relating to collective bargaining, unless the Public Record is otherwise required to be made available under the Public Employment Relations Act, MCL 423.201 to 423.217.
Section 13(1)(p)	Testing data developed by a Public Body in determining whether bidders' products meet the specifications for purchase of those products by the Public Body, if disclosure of the data would reveal that only one bidder has met the specifications. This subdivision does not apply after one year has elapsed from the time the Public Body completes the testing.
Section 13(1)(u)	Records of a Public Body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the Public Body.
Section 13(1)(v)	Records or information relating to a civil action in which the requesting party and the Public Body are parties.
Section 13(1)(w)	Information or records that would disclose the Social Security number of an individual.
Section 13(1)(y)	Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a Public Body, capabilities and plans for responding to a violation of the Michigan Anti-Terrorism Act, MCL 750.543a to MCL 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness

	strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would impair a Public Body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.
Section 13(1)(z)	Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.
Section 13(l)(aa)	Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.

Other Important Points to Note:

- Home addresses and telephone numbers constitute private information for purposes of the FOIA's privacy exemption.
- A personal e-mail not transmitted in the performance of an official function is not a Public Record.
- Communications maintained on a personal device may constitute Public Records if they were transmitted in the performance of an official function.
- Personnel records possessed by Public Bodies that are subject to the FOIA generally are not exempt from disclosure unless the information falls within one of the FOIA exemptions. For instance, under the Michigan Bullard-Plawecki Employee Right to Know Act, specifically MCL 423.507, disciplinary reports, letters of reprimand, or other records of disciplinary action that are more than four years old are not to be released to third parties unless the release is ordered in a legal action or arbitration to a party in that legal action or arbitration. Therefore, such records would be exempt from disclosure under Section 13(l)(d) of FOIA.
- If a FOIA request appears calculated to obtain information from a Member pertaining to actual or threatened potential litigation, MCRCSIP should be immediately notified and legal counsel consulted before responding.
- MCL 124.12(1) provides that information regarding that portion of the funds or liability reserve of a municipal self-insurance pool established for purposes of satisfying a specific claim or cause of action are exempt from disclosure under the FOIA. Consequently, all such information available to Members through MCRCSIP is exempt from disclosure under MCL 15.243(l)(d).



Freedom of Information Act (FOIA)

Fees & Deposits (MCL 15.234)

A Public Body may charge a fee under the FOIA, which total fee may not exceed the sum of the following components:

Nature of Cost	How Calculated
<p>Labor costs are directly associated with searching for, locating, and examining Public Records to fulfill a granted written request, when failure to charge a fee will result in unreasonably high costs to the Road Commission.</p>	<p>Not more than the hourly wage of the lowest-paid employee capable of searching for, locating, and examining the Public Records, regardless of whether that person actually performs the labor, charged in increments of 15 minutes or more, rounded down.</p>
<p>Labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information, when failure to charge a fee will result in unreasonably high costs to the Road Commission.</p>	<p>For services performed by an employee of the Public Body, not more than the hourly wage of the lowest-paid employee capable of separating and deleting exempt information from nonexempt information, regardless of whether that person actually performs the labor, charged in increments of 15 minutes or more, rounded down.</p> <p>If there is no employee capable of separating and deleting exempt information from nonexempt information, as determined by the FOIA Coordinator, contracted labor costs, not exceeding an amount equal to 6 times the state minimum hourly wage rate under Michigan law, charged in increments of 15 minutes or more, rounded down. The name of the contracted person or firm must be provided to the requestor on the detailed itemization of fees.</p>
<p>Non paper physical media.</p>	<p>The actual and most reasonably economical cost of the non-paper physical media.</p>
<p>Paper copies of Public Records.</p>	<p>The actual total incremental cost of necessary duplication or publication, not exceeding 10 cents per sheet of paper made on 8-1/2 by 11-inch paper or 8-1/2 by 14-inch paper, utilizing the most economical means available for making copies of Public Records, including double-sized printing, if cost saving and available.</p>

<p>Labor costs directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital Public Records to be given to the requestor on non-paper physical media or through the internet or other electronic means as stipulated by the requestor.</p>	<p>Not more than the hourly wage of the lowest-paid employee capable of necessary duplication or publication, regardless of whether that person actually performs the labor, charged in time increments of the Public Body's choosing, rounded down.</p>
<p>Mailing.</p>	<p>The actual cost of mailing, if any, for sending the Public Records in a reasonably economical and justifiable manner. The Public Body may not charge more for expedited shipping or insurance unless specifically stipulated by the requestor but may otherwise charge for the least expensive form of postal delivery confirmation when mailing Public Records.</p>

- The Public Body may add up to 50% to the applicable labor charge to cover the cost of fringe benefits, limited to the actual cost of fringe benefits, if it clearly notes the percentage multiplier used to account for benefits in the detailed itemization of fees.
- Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor.
- Copies of Public Records may be furnished without charge or at a reduced charge if the Public Body determines that a waiver or reduction of the fee is in the public interest.
- A copy of a Public Record shall be furnished without charge for the first \$20.00 of the fee for each request made by an individual who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. However, an individual is ineligible for this fee reduction if the individual has previously received discounted copies of Public Records from the same Public Body twice during that calendar year or if the individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual making the request.
- A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Public Body because of the nature of the request, and the Public Body specifically identifies the nature of these unreasonably high costs.
- Any Public Records available to the general public on the Public Body's internet site at the time the request is made are exempt from any charges. The Public Body

shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable, must include a specific webpage address where the requested information is available.

- The Public Body must use a standard form for itemizing any estimated or charged fee amount in responding to a written request for a Public Record. The detailed itemization must clearly list and explain the allowable charges for each of the 6 fee components that compose the total fee used for estimating or charging purposes.
- If a Public Body does not respond to a written request in a timely manner as required under the FOIA, the Public Body must reduce the charges for labor costs otherwise permitted by 5% for each day the Public Body exceeds the time permitted for a response to the request, with a maximum 50% reduction, if either the late response was willful and intentional or the written request specifically referenced the FOIA within the first 250 words of the body of the request.
- Within 10 business days after receiving a written appeal concerning a fee request, the head of a Public Body shall do 1 of the following:
 - Waive the fee;
 - Reduce the fee and issue a written determination to the requestor indicating the specific basis that supports the remaining fee;
 - Uphold the fee and issue a written determination to the requestor indicating the specific basis that supports the required fee; or,
 - Issue a notice extending for not more than 10 business days the period during which the head of the Public Body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a Public Body shall not issue more than 1 notice of extension for a particular written appeal.
- A board that is the head of a Public Body is not considered to have received a written appeal until the first regularly scheduled meeting of that board following submission of the written appeal.

Deposits:

- In either the Public Body's initial response or subsequent response, the Public Body may require a good-faith deposit from the requestor before providing the Public Records to the requestor if the entire fee estimate or charge exceeds \$50.00, based on a good-faith calculation of the total fee.
- The deposit must not exceed ½ of the total estimated fee, and a Public Body's request for a deposit must include a detailed itemization.
- The request must also contain a best-efforts estimate by the Public Body regarding the time frame it will take the Public Body to comply with the FOIA in providing the



Freedom of Information Act (FOIA)

How to Submit a FOIA Request

1. How do I submit a FOIA request to the Road Commission?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Road Commission must be in writing. A request may be submitted on the Road Commission's FOIA Request Form or in any other form of writing (letter, fax, e-mail, etc.).
- A request must sufficiently describe a public record so as to enable the Road Commission to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the Road Commission in providing a prompt response.
- No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the Road Commission's website at www.scrs-mi.org and at the Road Commission's office.
- Written requests may be delivered to the Road Commission office in person or by mail: FOIA Coordinator, 3020 Sheridan Avenue, Saginaw, MI 48601
- Requests may be faxed to 989-399-3745
 - To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be e-mailed to: admin@scrc-mi.org
 - To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line.
- Please note that the Road Commission is not obligated to create a new public record or make a compilation or summary of information which does not already exist.

2. What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request, the Road Commission will issue a response. If a FOIA request is received by fax or e-mail, the request is deemed to have been received on the following business day.
- The Road Commission will respond to your FOIA request in one of the following ways:
 - Grant the request; or
 - Issue a written notice denying the request; or
 - Grant the request in part and issue a written notice denying part of the request; or
 - Issue a notice indicating that the Road Commission needs an additional 10 business days to respond: or issue a written notice indicating that the public record requested is available at no charge on the Road Commission's website.
- If the FOIA request is granted, or granted in part, the Road Commission will ask you to

pay all the allowable fees associated with responding to the request before the public record is made available to you.

- If the cost of processing the FOIA request is expected to exceed \$50.00, or if you have not paid for a previously granted FOIA request, the Road Commission will require a deposit before processing your FOIA request.

3. What are the Road Commission's deposit requirements?

- If the Road Commission has made a good faith calculation that the total fee for processing the FOIA request will exceed \$50.00, the Road Commission will require you to provide a deposit in the amount of 50% of the total estimated fee. When the Road Commission requests the deposit, it will provide you with a non-binding, best-efforts estimate of how long it will take to process the request after you have paid your deposit.
- If you have not fully paid the Road Commission for copies of public records that were made available to you in fulfillment of a previously granted FOIA request, the Road Commission will require you to pay a deposit of 100% of the estimated processing fee for any subsequent FOIA request before the Road Commission begins to search for a public record, if **all** the following conditions exist:
 - o The final fee for the prior FOIA request is not more than 105% of the estimated fee; and
 - o The public records made available contained the information sought in the prior FOIA request and remain in the Road Commission's possession; and
 - o The public records were made available to you, subject to payment, within the best-efforts time frame estimated by the Road Commission to provide the records; and ninety (90) days have passed since the Road Commission notified you in writing that the public records were available for pickup or mailing; and
 - o You are unable to show proof of prior payment to the Road Commission; and
 - o The Road Commission has calculated an estimated detailed itemization that is the basis for the current FOIA request's increased fee deposit.
- The Road Commission will not require you to make the 100% estimated fee deposit if any of the following apply:
 - o You can show proof of prior payment in full to the Road Commission; or
 - o The Road Commission is subsequently paid in full for all applicable prior written requests; or
 - o Three hundred sixty-five (365) days have passed since you made the request for which full payment was not made to the Road Commission.

4. How does the Road Commission calculate FOIA processing fees?

The Michigan FOIA statute permits the Road Commission to charge the following costs associated with processing a FOIA request:

- Labor costs are associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper

- physical media or through the internet.
- Labor costs associated with searching for, locating, and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the Road Commission.
 - Labor costs are associated with a review of a record to separate and delete information that is exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the Road Commission.
 - The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Road Commission's website if you ask for the Road Commission to make copies.
 - The cost of computer discs, computer tapes, or other digital or similar media when you request records on non-paper physical media. This may include the cost for copies of records already on the Road Commission's website if you ask for the Road Commission to make copies.
 - The actual cost to mail or send a public record to you.

Labor costs

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid Road Commission employee capable of doing the work in the specific fee category, regardless of who actually does the work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The Road Commission may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but the Road Commission will not charge more than the actual cost of fringe benefits.
- Overtime wages will not be included in the calculation of labor costs unless agreed to by you. Overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate not to exceed 6 times the state minimum hourly wage.

Copying and Duplication

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The Road Commission will provide records using double-sided printing, if it is cost-saving and available.

Non-paper Copies 011 Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes, or other digital or similar media, will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if the Road Commission has the technological capability

necessa1y to provide the public record in the requested non-paper physical media format.

Mailing Costs

The Road Commission may charge you for the costs of mailing a public record to you. These costs will be based on the following:

- The actual cost of mailing the record(s), using a reasonably economical and justified means; and
- The least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless you request it.

Waiver of Fees

The cost of searching for and copying a public record may be waived or reduced if the FOIA Coordinator determines that a waiver or reduction of the fee is in the public interest. The Road Commission Board may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

5. How do I qualify for an indigence discount on the fee?

The Road Commission will waive the first \$20.00 of the processing fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

You are **not** eligible to receive the \$20.00 discount if you:

- Have previously received discounted copies of public records from the Road Commission twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement made under penalty of perjury.

6. Can a nonprofit organization receive a discount on the fee?

The Road Commission will waive the first \$20.00 of the processing fee for a request from a nonprofit organization formally designated by the State to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, if the request meets all of the following requirements:

- It is made directly on behalf of the organization or its clients; and
- It is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and
- It is accompanied by documentation of the designation by the State.

7. Can I challenge the denial of my request for a public record?

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the Road Commission Board by filing a written appeal of the denial with the Road Commission office.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial. You may use the Road Commission's FOIA Appeal Form (To Appeal a Denial of Records), which is available at the Road Commission's office and on the Road Commission's website: www.scrc-mi.org

The Road Commission Board is not considered to have received written appeal until the first regularly scheduled Road Commission Board meeting following submission of the written appeal. Within 10 business days of receiving the appeal the Road Commission Board will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial;
- Reversing the disclosure denial in part and upholding the disclosure denial in part; or
- Under unusual circumstances, such as the need to examine or review a voluminous amount separate and distinct public records, issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Road Commission Board will respond to the written appeal.

Whether or not you submitted an appeal of a denial to the Road Commission Board, you may file a civil action in the Saginaw County Circuit Court within 180 days after the Road Commission's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs, and disbursements. If the court determines that the Road Commission acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court will award you punitive damages in the amount of \$1,000.00.

8. Can I challenge an excessive FOIA processing fee?

If you believe that the fee or good faith deposit by the Road Commission to process your FOIA request exceeds the amount permitted by state law or under the Road Commission's FOIA Procedures and Guidelines, you must first appeal to the Road Commission Board by submitting a written appeal for a fee reduction to the Road Commission office.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted by state law or under the Road Commission's FOIA Procedures and Guidelines. You may use the Road Commission's FOIA Appeal Form (To Appeal an Excess Fee), which is available at the Road Commission's office and on the Road Commission's website: www.scrc-mi.org

The Road Commission Board is not considered to have received a written appeal until the first regularly scheduled Road Commission Board meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the Road Commission Board will respond in

writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending the period during which the Road Commission Board will respond to the written appeal by not more than 10 business days.

Within 45 days after receiving notice of the Road Commission's Board's determination of the processing fee appeal, you may commence a civil action in the Saginaw County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all of or an appropriate amount of your reasonable attorneys' fees, costs, and disbursements. If the court determines that the Road Commission acted arbitrarily or capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.

If you have further questions regarding the Road Commission's FOIA policies, you are encouraged to review the Road Commission's FOIA Procedures and Guidelines, which are available at the Road Commission office and their website at www.scrc-mi.org