

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR THE COUNTY OF KENT

MICHIGAN OPEN CARRY, INC.,

Plaintiff,

Case No. 25-20166-CZ

v

Hon. Paul J. Denenfeld

CITY OF WYOMING,

Defendant.

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**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT’S MOTION FOR SUMMARY DISPOSITION**

The Court dispenses with oral argument under MCR 2.119(E)(3). There shall be no hearing on August 29, 2025.

I. Introduction

Before the Court is Defendant City of Wyoming’s Motion for Summary Disposition requesting dismissal of this lawsuit pursuant to MCR 2.116(C)(10). This case arises out of Plaintiff Michigan Open Carry, Inc.’s Freedom of Information Act (“FOIA”) request to Defendant seeking an application utilized by Defendant’s police department when an individual applies for a License to Purchase a Firearm. Defendant’s position is that this application is exempt from disclosure because it is a firearms record protected by the Firearms Act. Plaintiff responds in opposition, arguing that the application is not a document authorized or required by the Firearms Act; rather, it is an illegal “preapplication” to the actual application contemplated by the Firearms Act.

II. Facts

The parties agree to the following facts. On April 1, 2025, Plaintiff submitted a FOIA request to Defendant that read, in part, as follows:

Background: It is the understanding of MOC that the Department requires individuals who wish to apply for a license to purchase a firearm to first fill out an informational form that is not an application form provided by the Director of the Department of State Police (RI-010 or RI-010a).

[Requested records:] A copy of any above-referenced form filled out and submitted to the Department between February 13, 2024, and the date in which this request is fulfilled.

The form referenced by Plaintiff in the above FOIA request is attached to Defendant's Motion and is entitled "Application to Purchase a Firearm." In addition to requesting personally identifiable information, the Application also enquires as to whether the applicant has a concealed pistol license, has ever been arrested or on probation or parole, has a medical marijuana card, has ever been declared mentally incompetent, has ever been in the military, or has ever been denied a license to purchase a firearm.

On April 7, 2025, Defendant denied Plaintiff's FOIA request on the basis of the following exemptions found at MCL 15.243(1):

- (a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would constitute an unwarranted invasion of personal privacy.
- (d) Records or information specifically described and exempted from disclosure by statute.
- (w) Information or records that would disclose the Social Security number of an individual.

Plaintiff appealed this denial as permitted by Defendant's FOIA policy. The appeal asserted that the Application was not exempt in their entirety as firearms records, but acknowledged that personally identifiable information, such as an individual's name, address, date of birth, phone number, and Social Security number, is exempt under FOIA. Plaintiff further claimed that the only form allowed by the Firearms Act is the Michigan State Police Application ("State Application").

Defendant denied the appeal, reaffirming the positions taken in the original response. Plaintiff responded alleging that the Applications are not "firearms records," and that the

Applications are illegal because they constitute regulation prohibited pursuant to MCL 123.1101-1104. Defendant replied, again emphasizing that the Applications were firearm records. On or about May 20, 2025, Plaintiff initiated the current lawsuit alleging that Defendant violated the FOIA.

Defendant alleges the additional following facts regarding the Application and its process for issuing a License to Purchase (“LTP”). When an individual comes to Defendant’s police department seeking an LTP, Defendant asks the applicant to complete its Application. Defendant needs the information in its Application in order to create a profile for the applicant in MiPistol, which is a state database that tracks pistol sales and transfers in Michigan. Without the Application, Defendant’s clerks would have to verbally ask the questions of the applicants in a loud public lobby in order to obtain information needed for MiPistol.

Once a MiPistol profile is created or information in an existing profile is verified, the system generates a State Application for an LTP. After reviewing the State Application with the applicant, the applicant signs it and the document is notarized. The clerk then marks the State Application as “received,” which prompts the MiPistol system to run background checks through the appropriate systems to see whether there are any circumstances that affect the applicant’s qualification for obtaining an LTP.

As part of its investigation into the applicant’s qualifications, Defendant also reviews the applicant’s answers to the questions on its Application, described above. Depending on the applicant’s answers, additional investigation may be needed. The application allows the clerks to advise applicants if an LTP can be issued quickly or if further investigation is needed and the applicant should return at a later date.

III. Legal Standard

Defendant now moves pursuant to MCR 2.116(C)(10). Summary disposition under MCR 2.116(C)(10) is available when “[e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.” A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ. *Attorney Gen v PowerPick Players’ Club of Michigan, LLC*, 287 Mich App 13, 26–27, 783 NW2d 515 (2010).

In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties. MCR 2.116(G)(5). The moving party must specifically identify the undisputed facts and has the initial burden of supporting its position with documentary evidence. *Smith v Globe Life Ins Co*, 460 Mich 446, 455; 597 NW2d 28, 33 (1999). The responding party must then present legally admissible evidence to demonstrate that a genuine issue of material fact remains for trial. *Id.*

IV. Analysis

A. FOIA

The FOIA, MCL 15.231 *et seq.*, declares that the public policy of this state is to provide citizens with “full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.” MCL 15.231(2). “FOIA is a manifestation of this state's public policy favoring public access to government information, recognizing the need that citizens be informed as they participate in democratic governance, and the need that public officials be held accountable for the manner in which they perform their duties.” *Rataj v City of Romulus*, 306 Mich App 735, 748; 858 NW2d 116 (2014). In accordance with this policy, the FOIA allows a person to file a written request with a public body to disclose a “public record.” MCL 15.233(1).

Unless subject to an exemption, an individual who requests a public record “has a right to inspect, copy, or receive copies of the requested public record of the public body.” *Id.* See also *Thomas v City of New Baltimore*, 254 Mich App 196, 201; 657 NW2d 530 (2002) (“By its express terms, the FOIA is a prodisclosure statute; a public body must disclose all public records not specifically exempt under the act.”). When a public body denies a FOIA request and the requesting party seeks to compel disclosure of a public record in a circuit court action under MCL 15.240(1)(b), the public body bears the burden of proving that its decision to withhold the records was justified under FOIA. MCL 15.240(4). “[A] court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld” MCL 15.240(4).

B. Exemptions

Defendant first argues that the Applications are exempt from disclosure in their entirety under the Firearms Act, MCL 28.421 *et seq.* In response, Plaintiff acknowledges that the

Firearms Act requires certain applications and licenses relating to firearms and it exempts these documents from FOIA. Plaintiff argues, however, that the forms sought via its FOIA request are not these records, but rather different forms created by Defendant that it requires “in addition to the State Application in the LTP process.”

MCL 28.421b(1) states, in relevant part:

Firearms records are confidential, are not subject to disclosure under the freedom of information act . . . and shall not be disclosed to any person, except as otherwise provided by this section.

Additionally, MCL 28.421(d) defines firearms records as follows:

“Firearms records” means any form, information, or record required for submission to a government agency under sections 2, 2a, 2b, and 5b, or any form, permit, or license issued by a government agency under this act.

Defendant now argues that its Application falls under both definitions of a firearms records because some of the information on its Application is required for submission to a government agency and because Defendant issues its Application form under the Firearms Act.

The Court is unconvinced that the Application falls under the definition of a firearms record under MCL 28.421(d). The first part of this definition includes “any form, information, or record required for submission to a governmental agency under sections 2, 2a, 2b, and 5b.” MCL 28.421(d) (emphasis added). Here, Defendant only argues that its Application includes *some* information required for submission to a governmental agency; it also fails to acknowledge that this part of the definition only includes information required for submission “under sections 2, 2a, 2b, and 5b.” Defendant fails to cite any subsection of these sections to support its claim that the information its Application seeks is required for submission by these sections. Additionally, even if the information is required by one of these sections, requesting it on Defendant’s application would be unnecessary and duplicative to the State Application, which is directly authorized by MCL 28.422(4).

The Court is also unconvinced that the Application falls under the second part of the definition, which includes “any form, permit, or license issued by a government agency under this act.” MCL 28.421(d). Simply put, the Application is not a form *issued by* a government agency; it is a form that is *required for submission* to a governmental agency. The above definition of firearms records explicitly distinguishes between forms required for submission and forms issued by a government agency. If the Court were to allow Defendant’s interpretation of this statute, or that its Application falls under both definitions, the distinction between the two

would be rendered nugatory. Accordingly, the Court is unconvinced that the Application is a firearms record that is exempt from disclosure under FOIA.

C. Redactions

The next issue is how the Applications should be redacted in order to protect against the disclosure of personal information. Pursuant to MCL 15.243(1), a public body may exempt from disclosure as a public record “information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual’s privacy.” It is well settled that when dealing with a public record that contains private information, removing the portions that would identify the individual strikes the right “balance between preserving the informative value of the records sought and protecting the individual’s right to privacy.” *Detroit Free Press, Inc v Dept of Consumer & Indus Servs.*, 246 Mich App 311, 321; 631 NW2d 769 (2001).

To strike this balance, the Court will order the redaction of the following fields:

- Name (First, Middle, and Last)
- Address (not City or Zip)
- Date of Birth (Day and Month)
- Alias/Maiden (First, Middle, and Last)
- Additional (First, Middle, and Last)
- Phone number
- Social Security Number
- Birthplace
- Country of Citizenship
- Signature

The answers to the remaining questions do not need to be redacted. This includes the line where the applicant must check if they are a U.S. citizen, a legal resident alien, or other.

D. Payments and Attorneys’ Fees, Costs, and Disbursements

Finally, this Court must consider whether Defendant is entitled to payment for production of the public records and whether Plaintiff is entitled to attorneys’ fees, costs, and disbursements or a punitive award or fines. The Court is unpersuaded that Defendant has lost the opportunity to charge for the requested public records but is also unconvinced that Defendant has established it is entitled to such charges at this time. Defendant complied with the time requirement of MCL 15.235(2) by issuing a denial within five business days and, if Defendant establishes that it has prevailed in part, costs are permitted under MCL 15.240(6). In regard to any monetary awards to

Plaintiff, the Court will grant Plaintiff's request to allow further motion practice and therefore also declines to now decide this issue.

V. Conclusion

For these reasons, Defendant's Motion for Summary Disposition is hereby GRANTED in part and DENIED in part. Plaintiff's request for summary disposition pursuant to MCR 2.116(I)(2) is hereby GRANTED in part and DENIED in part. The Court orders Defendant to produce the public records requested by Plaintiff with the above-ordered redactions.

IT IS SO ORDERED.

Dated: August 28, 2025

PAUL J. DENENFELD

Hon. Paul J. Denenfeld, Circuit Judge

17th CIRCUIT COURT



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