

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF HURON**

THOMAS LAMBERT and  
MICHIGAN OPEN CARRY, INC,  
Plaintiffs,

Case No.: 16-105457-CZ  
Honorable Gerald R. Prill

v.

**DISCOVERY**

CITY OF HARBOR BEACH,  
Defendant

---

OUTSIDE LEGAL COUNSEL PLC  
PHILIP L. ELLISON (P74117)  
Attorney for Plaintiffs  
PO Box 107  
Hemlock, MI 48626  
(989) 642-0055  
(888) 398-7003 - fax  
pellison@olcplc.com

AUDREY J. FORBUSH (P41744)  
PLUNKETT COONEY  
Attorney for Defendant  
Plaza One Financial Center  
111 E. Court Street- Suite 18  
Flint, MI 48502  
(810) 342-7014  
(810) 232-3159- fax  
aforbush@plunkettcooney.com

---

**PLAINTIFFS' FIRST REQUEST FOR DISCOVERY**

TO: Defendant CITY OF HARBOR BEACH

As used within this request:

- A. "Identify" when referring to an individual, corporation, or other entity shall mean to set forth the name and telephone number, and if a corporation or other entity, its principle place of business, or if an individual, the present or last known home address, his or her job title or titles, by whom employed and address of the place of employment.
- B. Where knowledge or information in possession of a party is requested, such request includes knowledge of the party's principals, employees, staffers, agents, insurance companies, representatives, and unless privileged, his, her, or its attorney or attorneys. When answer is made by a corporate or other entity defendant, state the name, address and title of person(s) supplying the information and list the source of his or her information.
- C. The pronoun "you" refers to the party this request is directed at as well as to the individuals and entities mentioned in subsection (B) above.

Kindly answer, respond, and/or produce, in full, all discovery items/requests propounded below pursuant to MCR 2.309, MCR 2.310, and/or MCR 2.312 of the Michigan Court Rules:

1. INTERROGATORY: Does the City of Harbor Beach treat the October 3, 2016 FOIA Requests (copy attached as Exhibit A) as being from 1.) Thomas Lambert (personally); OR 2.) Michigan Open Carry, Inc; OR 3.) both.

2. Admit that MCR 2.111(F)(3) requires that the City of Harbor Beach “*must state the facts constituting*” any affirmative defense so raised, as explained by *Tyra v Organ Procurement Agency of Mich*, 850 NW2d 667, 671 (Mich. Ct. App. 2013) reversed in part on other grounds \_\_ Mich \_\_; 2015 Mich. LEXIS 1633 (July 22, 2015).

3. INTERROGATORY: List with particularity the full factual and legal basis for Affirmative Defense No. 2 wherein you state that “Defendant is entitled to governmental immunity pursuant to MCL 691.1407” especially in light of each claim being assert is not based on the common law but on a statute, the *Freedom of Information Act*.

4. INTERROGATORY: List with particularity the full factual and legal basis for Affirmative Defense No. 3 wherein you state that “failed to mitigate damages.”

a. INTERROGATORY: List with particularity the damages (including all amounts) you are asserting that Plaintiffs incurred and failed to mitigate; be as specific as possible.

5. INTERROGATORY: List with particularity the full factual and legal basis for Affirmative Defense No. 4 wherein you state that the City of Harbor Beach is immune; be as specific as possible to all things you are actually and factually alleging the City of Harbor Beach is immune to.

6. INTERROGATORY: As for Affirmative Defense No. 5, specifically and completely list the exact words in Exhibit A which you believe proves that you “granted” the three October 3 FOIA requests.

7. INTERROGATORY: As for Affirmative Defense No. 6, at what specific dollar amount does a FOIA request reach (or become) an “unreasonably high cost” associated with compiling materials; please provide the specific dollar amount and how that amount was selected.

8. PRODUCE: any and all policies in effect on or before Oct 3, 2016 which delineates “unreasonably high costs” under FOIA with all other lesser cost requests.

9. PRODUCE: all written policy or written notice that the FOIA Coordinator designated someone, other than himself or herself, on or before Oct 3, 2016 in relation to Affirmative Defense No. 7.

10. INTERROGATORY: List all policies, laws, statutes, regulations, or like-kind legal documents which allows a public body to “revise” its response” to a proffered Freedom of Information Act request.

a. PRODUCE: all documents cited in Interrogatory No. 10.

11. INTERROGATORY: List with particularity all documents sought by the Oct 3 Requests which were “not have been prepared, owned, used or have been in the possession of or retained by the City of Harbor Beach” in relation to Affirmative Defense No. 9. For each document, list the document’s date, originator, length, general subject matter, and location, for each item.

12. INTERROGATORY: List with particularity all documents sought by the Oct 3 Requests which the City of Harbor Beach is withholding on the basis of MCL 15.243(1)(d) in relation to Affirmative Defense No. 12. For each document, list the document’s date, originator, length, general subject matter, and location, for each item.

13. INTERROGATORY: List with particularity all documents sought by the Oct 3 Requests which the City of Harbor Beach is withholding on the basis of MCL 15.243(1)(g) in relation to Affirmative Defense No. 12. For each document, list the document’s date, originator, length, general subject matter, and location, for each item.

14. INTERROGATORY: List with particularity all documents sought by the Oct 3 Requests which the City of Harbor Beach is withholding on the basis of MCL 15.243(1)(m) in relation to Affirmative Defense No. 12. For each document, list the document’s date, originator, length, general subject matter, and location, for each item.

15. INTERROGATORY: Identify all documents, papers, and/or exhibits you have or claim to have which support your denials and/or allegations as set forth in the filed Answer and/or Affirmative Defenses.

16. INTERROGATORY: Identify by name, home and business address, and telephone number, every person you or your attorney may call as a witness at any trial or hearing in this matter, together with an itemization of all factual or legal testimony you or your attorney may seek to elicit from those witnesses and how those persons gained the information regarding the facts or law; and list the contents of any evidence (including written materials or computer data) that you or your attorney may seek to introduce through those witnesses, or attach copies to your answers to these discovery requests.

17. INTERROGATORY: In regard to the previous interrogatory, identify all witnesses you or your attorney may attempt to qualify as experts at any trial or hearing in this matter, as well as any experts you have consulted but do not intend to use, including a specification of their respective areas of expertise, the number of years of experience in their areas of expertise, their educational backgrounds, copies of their

résumés or curriculum vitae, and copies of all reports or summaries prepared by those witnesses (including written materials or computer data), as well as any evidence you or your attorney may seek to introduce through those witnesses not disclosed in your prior answers, or attach copies to your answers to these discovery requests.

18. INTERROGATORY: In regard to the two previous interrogatories, identify with particularity all criminal convictions of those witnesses (especially any crime containing an element of dishonesty, false statement, or theft), and all reprimands or censures by professional organizations, including the name and complete address of the court or professional organization rendering conviction, reprimand, or censure, the specific charge, the date of the conviction, reprimand, or censure, and the docket number of the court file for each conviction, or attach copies to your answers to these discovery requests.

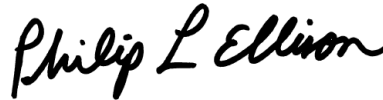
19. INTERROGATORY: Identify the contents of all items you or your attorney will seek to introduce into evidence at any trial or hearing in this matter (including demonstrative evidence) not disclosed in your prior answers to discovery requests.

20. PRODUCE: all items you list in Interrogatory No. 19.

21. INTERROGATORY: Identify all persons with whom you consulted and/or checked with to investigate actual or possible answers to these discovery requests; for each person, itemize each discovery request the person contributed information which became your answer in response thereto.

Date: January 16, 2017

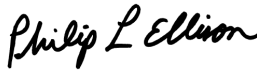
RESPECTFULLY SUBMITTED:



OUTSIDE LEGAL COUNSEL PLC  
BY PHILIP L. ELLISON (P74117)  
Attorney for Plaintiffs  
PO Box 107 · Hemlock, MI 48626  
(989) 642-0055  
(888) 398-7003 - fax  
pellison@olcplc.com

**PROOF OF SERVICE**  
The undersigned certifies that a copy of the foregoing document(s) was served on parties or their attorney of record by 1.) emailing the same to the email addresses or record and 2.) mailing the same via US mail to their respective business address(es) as disclosed by the pleadings of record herein with postage fully prepaid, on the

16th day of January, 2017.



PHILIP L. ELLISON  
Attorney at Law

\*\*Electronic signature authorized by MCR 2.114(C)(3) and MCR 1.109(D)(1)-(2)



MOC  
mail

Tom Lambert <tlambert@miopencarry.org>

---

## Harbor Beach FOIA Request

---

Ron Wruble <rwruble@harborbeach.com>  
To: Tom Lambert <tlambert@miopencarry.org>  
Cc: Gary Booms <gary.s.booms@gmail.com>

Fri, Oct 7, 2016 at 1:44 PM

Mr. Lambert,

This e-mail is in response to your request for information pursuant to the Michigan Freedom of Information Act.

I have determined that it will take me a minimum of 3 hours and City Clerk Leslie Woycehoski a minimum of 2 hours to collect the information you have requested. The City Director's compensation, including benefits, is \$55.09 per hour. The Clerk's total compensation, including benefits, is \$43.30 per hour. The total cost to produce the information is

\$251.87. You will need to have payment into City Hall prior to the information being released in the form of cash or money order.

I checked with Mayor Booms (who is also the FOIA Officer for the City) he indicated that the City will not waive the cost for the FOIA request.

Please let me know how you want to proceed. The Clerk and I have blocked off time in our schedules to produce the information you requested on Monday, so we can meet your demand of Tuesday, October 11th.

Ron Wruble

City Director

City of Harbor Beach

989-551-3393

---

**From:** Tom Lambert [mailto:tlambert@miopencarry.org]  
**Sent:** Monday, October 03, 2016 5:52 PM  
**To:** rwruble@harborbeach.com; lwoycehoski@harborbeach.com  
**Cc:** MiOC Board  
**Subject:** Harbor Beach FOIA Request

October 3rd, 2016

To whom it may concern,

Pursuant to the Michigan Freedom of Information Act (FOIA), Michigan Public Act 442 of 1976; MCL 15.231 et. seq., I am hereby requesting an opportunity to inspect or obtain copies of public records. I am hereby requesting the following from the City of Harbor Beach and the Harbor Beach City Council.

- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, in relation to resolution # 2016-92.
- Any and all records of discussion from, to, or between the Harbor Beach City Council and its members, and the City Director, from August 1st, 2016 through today October 3rd, 2016, in relation to the City's policy on firearms carried by employees.
- Any and all documentation obtained by or provided by the Harbor Beach City Council or one of its members, or the City Director, relating to how the City's policy on firearms carried by employees may affect the City's insurance rates.

Please inform me if the expected costs for searching and copying these documents will exceed \$20.00. However, I would like to request a waiver of all fees as the disclosure of the requested information is in the public interest and will contribute to the public's understanding and knowledge of the City's operations.

The FOIA requires a response to this request within five business days. Please respond to this request no later than Tuesday, October 11th.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal and notify me of the appeal procedures available.

Lastly, please make any copies generated under this request available electronically.

Tom Lambert

President

Michigan Open Carry, Inc.