

November 18, 2019

Dear East Lansing City Council,

Our new Mayor and Mayor Pro Tem have called for a new era of transparency, including with regard to communications from citizens. I applaud that and write for help in that regard.

Specifically, I seek your help obtaining answers on what happened to a petition regarding court consolidation organized by and submitted by East Lansing citizens.

Here's what I know:

**On September 24**, tipped off that a citizen petition regarding court consolidation organized by citizen Joannie Brogan was being suppressed from public view, I requested it under the Freedom of Information Act.

Specifically, I requested: "any petition or any letter similar to a petition sent to the City of East Lansing regarding court consolidation since August 1, 2019. I believe this material should have shown up in 'communications to Council' in the Council's published agenda but I cannot find it...." (Copy of FOIA request attached, p. 3 of this PDF.)

This missing communication constituted the fifth communication to City Council critical of court consolidation that had failed to make it into Council's published "written communications" since April 2019. The other four were from the Friends of Ingham County Veterans' Treatment Court, the Lansing Chapter of the NAACP, retired 54B District Court Judge David Jordon, and current 54B District Court Judges Andrea Larkin and Richard Ball. (There may have been others I don't know about.)

All five of these communications were addressed to Council, and all appeared to have been suppressed from the normal public record.

**On October 1**, I was informed that the City Clerk's office would be requiring up to the maximum extension allowed by law to find what I had requested in FOIA and that I would have a response no later than October 15. (Attached, p. 4.)

**On October 15**, on the day the FOIA response was due, I received an irregular phone call from Clerk Jennifer Shuster office telling me they had identified who probably had the petition but the Clerk's office would need a couple of days to obtain it and get it to me. I said that was acceptable, and I asked her to put the unusual extension in writing. The Clerk's office provided that confirmation of the call as requested. (Attached, p. 5.)

**On October 18**, the City Clerk formally "denied" my FOIA request "as the city of East Lansing is not in possession of records that respond to these elements of your request." (Attached, pp. 6-7.)

**On October 20**, contacted by me, petition-originator Joannie Brogan told me by telephone that she knew Mark Meadows had had what I had requested in FOIA, because when he came to

campaign to her door, he mentioned it specifically, saying he had seen it. She estimated to me that 75 residents had signed it before it was submitted.

**On October 21**, asked by me what was going on, Mark Meadows acknowledged by email that he had seen a “letter” from Joannie Brogan “signed by 8-10 other people.” (Attached, pp. 8-9.)

**Later the same day**, the City Clerk wrote to me to tell me now my request was “granted as the city of East Lansing has identified records that respond to your request.” But the Clerk simply provided an email that Joannie Brogan had sent to the City the day before, on October 20, following my telling Brogan that the City claimed it couldn’t find the signed petition. (Attached, p. 11.) The new email from Brogan only reproduced the original text of the petition – it was not the signed petition submitted.

**On October 22**, I asked Mark Meadows at City Council’s discussion-only meeting why the citizen petition was not ever included in “written communications.” You can watch the video for yourselves, but here is a summary of our questions-and-answers from that recording:

Asked by me why a petition like this would not be included in the published “communications” in the Council agenda packet, Meadows said “we can have staff advise you on what they do and how they choose items that go into that communication. So, I don’t have an answer for you.”

I asked, “When you saw this communication, did you see it on email or on paper?” Meadows said “on paper.”

I asked what he did with it. Meadows said, “I handed it back to staff.”

I asked, “So it came from staff and it went to staff?” He said, “Right.”

I asked, “Is there a reason you know of that it wasn’t conveyed to the full City Council?” Meadows answered, “I have no idea.”

I asked, “Do you know why it was not included in the FOIA response?” Meadows answered, “I have no idea. I don’t have an answer for you.”

**I would like an investigation and an answer** about what exactly happened with this document from a group of citizens trying to communicate with their City Council. In my experience, City staff doesn’t just lose documents, particularly one that has obvious significance, so I find it hard to believe they simply lost this and four other related communications.

**Please find out and tell the people of East Lansing:** Who kept this communication from the whole of City Council and from the public? And are those persons still empowered to commit this kind of suppression and/or major error?

Thank you.

Alice Dreger

# Request #2019-151

## Details

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Submitted

Tue, Sep 24, 2019

Name: Alice Dreger

On behalf of (if applicable): East Lansing Info

Email:

[publisher@eastlansinginfo.org](mailto:publisher@eastlansinginfo.org)

### Description

Under the Freedom of Information Act and as a reporter for East Lansing Info I order copies of the following: any petition or any letter similar to a petition sent to the City of East Lansing regarding court consolidation since August 1, 2019. I believe this material should have shown up in "communications to Council" in the Council's published agenda but I cannot find it. If I am in error, please just send me the link to the material. Thank you for your kind assistance with this request.

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## Confirmation of receipt #2019-151

Thank you for submitting a FOIA request to the City of East Lansing.

Your request reference number is [Request Number: 2019-151](#).

Please have this reference number available when communicating with our staff regarding your request.

If you have any questions, please contact City Clerk Jennifer Shuster at [jshuster@cityofeastlansing.com](mailto:jshuster@cityofeastlansing.com) or Deputy City Clerk Kathryn Gardner at [kgardne@cityofeastlansing.com](mailto:kgardne@cityofeastlansing.com).

Thank you!

East Lansing City Clerk's Office

(517) 319-6914

**Note:** This is an automated e-mail notification. Please do not respond to this e-mail.



# CITY CLERK

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Quality Services for a Quality Community

October 1, 2019

SENT VIA EMAIL

Alice Dreger

Re: Freedom of Information Act Request (19-151)  
Extension

Dear Ms. Dreger:

On September 24, 2019, the City of East Lansing received your Freedom of Information Act (FOIA) request as follows:

*“Under the Freedom of Information Act and as a reporter for East Lansing Info I order copies of the following: any petition or any letter similar to a petition sent to the City of East Lansing regarding court consolidation since August 1, 2019. I believe this material should have shown up in "communications to Council" in the Council's published agenda but I cannot find it. If I am in error, please just send me the link to the material. Thank you for your kind assistance with this request.”*

Because of the need to search for and retrieve records, notice is hereby given that the City will require an additional ten (10) business days to respond to your request. The City will provide a response to your request no later than October 15, 2019.

You may access the City of East Lansing FOIA policies and procedures at [www.cityofeastlansing.com](http://www.cityofeastlansing.com).

Please feel free to contact me at [kgardne@cityofeastlansing.com](mailto:kgardne@cityofeastlansing.com) with any questions or concerns you may have.

Sincerely,

Kathryn Gardner  
Deputy City Clerk

City of East Lansing  
CITY CLERK  
410 Abbot Road  
East Lansing, MI 48823  
(517) 319-6914  
[www.cityofeastlansing.com](http://www.cityofeastlansing.com)



# CITY CLERK

Quality Services for a Quality Community

October 15, 2019

SENT VIA E-MAIL

Alice Dreger

Re: Freedom of Information Act Request (19-151)  
Additional Extension

Dear Ms. Dreger:

On September 24, 2019, the City of East Lansing received your Freedom of Information Act request as follows:

*“Under the Freedom of Information Act and as a reporter for East Lansing Info I order copies of the following: any petition or any letter similar to a petition sent to the City of East Lansing regarding court consolidation since August 1, 2019. I believe this material should have shown up in ‘communications to Council’ in the Council’s published agenda but I cannot find it. If I am in error, please just send me the link to the material. Thank you for your kind assistance with this request.”*

Per your phone conversation with Clerk Jennifer Shuster, today, documents that respond to the request may be available by Friday, October 18. We will provide a FOIA request response by that date.

You may access the City of East Lansing FOIA policies and procedures at [www.cityofeastlansing.com](http://www.cityofeastlansing.com).

Please feel free to contact me at [kgardne@cityofeastlansing.com](mailto:kgardne@cityofeastlansing.com) with any questions or concerns you may have.

Sincerely,

Kathryn Gardner  
Deputy City Clerk

City of East Lansing  
CITY CLERK  
410 Abbot Road  
East Lansing, MI 48823  
(517) 319-6914  
[www.cityofeastlansing.com](http://www.cityofeastlansing.com)

**From:** Jennifer Shuster (East Lansing, MI) EastLansingMI@justfoia.com   
**Subject:** 2019-151 - Denied  
**Date:** October 18, 2019 at 4:16 PM  
**To:** publisher@eastlansinginfo.org  
**Cc:** jshuster@cityofeastlansing.com, kgardne@cityofeastlansing.com

JS

Alice Dreger,

Your FOIA request (2019-151) has been denied as the City of East Lansing is not in possession of records that respond to these elements of your request.

Since your request has been denied in whole or in part, we must inform you that you have the right to do either of the following:

- Submit to the Mayor of the City of East Lansing a written appeal that specifically states the word "appeal" and identifies the reason or reasons for the reversal of disclosure denial; or
- Seek judicial review of this denial in the circuit court under Section 10 of the Michigan Freedom of Information Act, MCL15.240, a copy of which is attached.

You may access the City of East Lansing FOIA policies and procedures at [www.cityofeastlansing.com](http://www.cityofeastlansing.com).

Please contact City Clerk Jennifer Shuster at [jshuster@cityofeastlansing.com](mailto:jshuster@cityofeastlansing.com) or Deputy City Clerk Kathryn Gardner at [kgardne@cityofeastlansing.com](mailto:kgardne@cityofeastlansing.com) if you have any questions or concerns.

Thank you!

East Lansing City Clerk's Office

(517) 319-6914

**FREEDOM OF INFORMATION ACT (EXCERPT)**  
**Act 442 of 1976**

**15.240 Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.**

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) 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. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), 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, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

**History:** 1976, Act 442, Eff. Apr. 13, 1977;—Am. 1978, Act 329, Imd. Eff. July 11, 1978;—Am. 1996, Act 553, Eff. Mar. 31, 1997;—Am. 2014, Act 563, Eff. July 1, 2015.

**Popular name:** Act 442

**Popular name:** FOIA

**From:** Mark Meadows mmeadows@cityofeastlansing.com  
**Subject:** Re: missing citizen petition  
**Date:** October 21, 2019 at 12:30 AM  
**To:** Alice Dreger alicedreger@gmail.com, Mark Meadows m1831@aim.com, meadowsforel@gmail.com



Alice,

When you say petition, what do you mean? If any letter sent to "council" is received at City Hall it should appear as a communication on the website. Council members receive lots of emails and letters weekly. Staff presumably does not review communications sent to individual council members and, in any event, that type of communication would not appear on the website. I would never assume that a letter sent specifically to me is intended to be made public. If the letter writer wanted to do that, they have a perfect right to do so.

I remember reading two letters on Court Consolidation, one from Joanie Brogan and one from Judge Jordan. Joanie's was also signed by 8-10 other people. Neither was a petition. Both commented on the legislation passed last year and opined that Court Consolidation would not be a good idea.

The city has not made any decisions relating to court consolidation and I don't know if it ever will. The discussions long ago moved away from moving courts to retaining each of the courts in their current location, with juries from each court's jurisdictional area and judges elected from each court's jurisdictional area. I think the last meeting regarding consolidation was in May. There was draft legislation (amendment of current legislation) discussed more recently. Savings would eventually come from consolidation of the administrative staff of the courts through attrition. Another factor that could influence consolidation is the most recent SCAO analysis of caseloads. EL shows as 1.6 judges, Lansing as 4.7 and Mason as 2.4. To balance this, there is discussion to move Meridian and Williamstown Twps into the EL Ct and Lansing Twp into the Lansing Ct. The result would be 4.8 judges for Lansing, 2.0 for EL and 1.9 for Mason.

I am a little worried that since Dick Ball cannot run again, if we don't get Meridian and Williamstown we could lose a Judge. The regular caseload analyzed by SCAO shows a need for 1.11 judges in EL. It is our specialty courts that push the need to 1.37 and the lack of a magistrate pushes it to 1.61.

Mark

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**From:** Alice Dreger <alicedreger@gmail.com>  
**Sent:** Sunday, October 20, 2019, 4:45 PM  
**To:** Mark Meadows; Mark Meadows; meadowsforel@gmail.com  
**Subject:** missing citizen petition

Mark,

I'm working on a story about the missing citizen petition on court consolidation for publication tomorrow morning. Can you tell me what you know about it?

A total of five communications, all from people critical of court consolidation, have been sent to council with none of them appearing in "council communications." Can you explain why all of these communications have been kept out of "council communications"?

Thanks.

Alice

**From:** Jennifer Shuster (East Lansing, MI) EastLansingMI@justfoia.com  
**Subject:** 2019-151 - Granted  
**Date:** October 21, 2019 at 11:27 AM  
**To:** publisher@eastlansinginfo.org  
**Cc:** jshuster@cityofeastlansing.com, kgardne@cityofeastlansing.com

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Alice Dreger,

Your FOIA request (2019-151) has been granted as the City of East Lansing has identified records that respond to your request. A record that responds to this request was received after the request was denied on October 18, 2019.

You may access the document by following this link: [Request Number: 2019-151](#).

Information in the document was redacted for the exemption for information, if disclosed, would invade an individual's personal privacy.

You may access the City of East Lansing FOIA policies and procedures at [www.cityofeastlansing.com](http://www.cityofeastlansing.com).

Please contact City Clerk Jennifer Shuster at [jshuster@cityofeastlansing.com](mailto:jshuster@cityofeastlansing.com) or Deputy City Clerk Kathryn Gardner at [kgardne@cityofeastlansing.com](mailto:kgardne@cityofeastlansing.com) if you have any questions or concerns.

Thank you!

East Lansing City Clerk's Office

(517) 319-6914

## Emily Gordon

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**From:** Joanie Brogan <[REDACTED]>  
**Sent:** Sunday, October 20, 2019 4:09 PM  
**To:** Emily Gordon  
**Subject:** Re: Court Consolidation Letter

Mayor Mark Meadows  
City council members Draheim, Beier, Stephens and Altmann  
City Manager George Lahanas

Dear City of East Lansing government leaders:

We are writing as concerned residents of the city regarding the possibility of giving up our city court to county funding and control and consolidating it with the courts from Lansing and the remaining areas of the county. We think it's important to have judges who live in our community and are sensitive to the needs of our neighborhoods and the impact the student population has on our city.

What is the benefit *to our residents of East Lansing* to give up local affiliation with our court? Why hasn't the public been given effective notice by the council that it is considering this consolidation? We would like the opportunity to be heard and to be told all the factors being considered in any such decision.

Our court is conveniently located downtown. While the plan is apparently to keep it there, we understand there is no guarantee at all that the county will continue to house a court here which is convenient to *all* our residents. Our city has laws which help protect all our citizens and our quality of life. How will the needs of our diverse population be prioritized and treated by a county court? Can you guarantee there will always be judges who are East Lansing residents? Can you guarantee the legislation won't be changed in the future to county wide elections which may result in no East Lansing judges?

Our citizens were given a chance to vote on the income tax proposal. Why aren't we being given a chance to vote on the important issue of giving up our court to the county?

We choose to live here and to pay some of the highest property taxes in the county along with a new income tax. Why is *our* council not representing *our* interests in keeping *our* court? Why is *our* council apparently concerned with convenience issues for citizens who have chosen to live outside our city limits? When the new income tax was passed the mayor and council promised it was to preserve city services. The court is an important local city service.

We oppose the transfer of our court to the county. We ask that council members vote no. We also ask that before any vote the people of East Lansing be given an opportunity to have their voices heard at well-advertised meetings like those on the tax issues. At the very least we need our judges and council members to attend to explain to us how this benefits or disadvantages our citizens.

Sincerely,

Signature

Printed name