

**From:**

Rudolf Scott-Douglas Owens, MA, MPH

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**To:**

Michigan Department of Health and Human Services (MDHHS)

FOIA Coordinator

P.O. Box 30195

Lansing, Michigan

Nov. 6, 2020

**-Freedom of Information Act Records Request No.: H008084-101120**

**-Appeal to Waive Excessive Fee Charges of \$1,168.44 for Freedom of Information Act Records Request**, for Public Records Held by the Department of Health and Human Services (Every Agency, Branch, and Office There Within), per MCL 15.231-.246 (Freedom of Information Act)

**-Petitioner: Rudolf Scott-Douglas Owens (Rudy Owens), aka Martin Rudolf Brueggemann (former legal name)**

Dear FOIA Coordinator:

I am writing to appeal the excessive fee charges that were assessed with my request for public records, held by the Michigan Department of Health and Human Services (MDHHS), that I requested on Oct. 12, 2020, pursuant to the state Freedom of Information Act, Mich. Comp. Laws Ann. 15.231-.246. I had requested access to and copies of all communications—written or electronic, including but not limited to electronic mail—referencing:

—the petitioner, Rudolf Scott-Douglas Owens, also known as Rudy Owens/Rudolf Owens (who also may be referred to by state employees through his former legal name, Martin Rudolf Brueggemann, Rudy Brueggemann, Martin Brueggemann),

—the petitioner's book (*You Don't Know How Lucky You Are: An Adoptee's Journey Through the American Adoption Experience*),

—the petitioner's websites ([www.howluckyuare.com](http://www.howluckyuare.com); [www.rudyowens.com](http://www.rudyowens.com)), and

—any article written by the petitioner.

I am requesting in my appeal that the fees be waived, as provided by Mich. Comp. Laws Ann. 15.231-.246, and as my initial request asked.

The reply I received on October 19, 2025, from the MDHHS stated:

*The Department has determined the cost for searching, retrieval, and review of the requested records and separation of exempt and nonexempt information. The cost of your FOIA request is stated in the invoice located in the MDHHS Public Records Center, where you may pay your invoice online. Upon receipt of your payment the Department will process your request. Your payment must be received*

*within 48 days from the date of this communication; otherwise, your request will be considered abandoned.*

No itemized list or explanation of this charge was provided outside of two charges at different hourly rates, amounting to \$1,166.44—making it impossible to understand how such an estimate was calculated, which are not in compliance with the statute as written. The statute, § 15.234, clearly states: “A public body’s procedures and guidelines must include the use of a standard form for detailed itemization of any fee amount in its responses to written requests under this act.”

The application of this excessive fee is not consistent with law and guidance provided to the state by the state’s Attorney General:

1): The petitioner’s FOIA request was not for any exempt records. All of the public records I requested meet the legal definition of public records that are not subject to any exemption by state law. Any use of staff time that may have been charged or would be charged to consider what records should be exempted would have been inconsistent with the status of records I requested, and thus such fees should have been excluded from any final charge. The reply from MDHHS stated more than \$588 in labor would be assessed in a review involving “redaction,” which legally would not be required with all of the public records as requested and defined as public records by the statute.

2): The application of the excessive fee of \$1,168.44 is in violation of Michigan’s FOIA law’s provision for fee waivers for both searches and copies where waiving “the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.” In my original letter and request, I referenced Mich. Comp. Laws Ann. § 15.234(2); see also *Kearney v. Dep’t of Mental Health*, 168 Mich. App. 406, 425 N.W2d 161, 162 (1988). In addition:

- My original request clearly documented how I have provided public information through scholarly research, public blogs/websites, articles, and journalistic writings published by the media on a public issue about how state officials treat persons who examine those officials, including the petitioner (Rudolf Owens). I have been publishing public information now for years on my blogs and meet every objective standard of a publisher who shares public information for the benefit of the public. That was clear in my request.
- I have a Master’s Degree in Journalism from the University of North Carolina at Chapel Hill and a Masters’ of Public Health Degree from the University of Washington. My work that I have been publishing on my multiple platforms, including my websites and blogs (<https://rudyowensblog.com>, [www.howluckyuare.com](http://www.howluckyuare.com), [www.rudyowens.com](http://www.rudyowens.com)) has clearly been researched, fact based, and focused on providing information to the public about public policy, public records, and issues of public importance. An examination of my work will make that clear to any neutral observer.
- The views and research I publish that the MDHHS may find unwanted are immaterial to how any state agency must implement any FOIA request as required by the state Freedom of Information Act, Mich. Comp. Laws Ann. 15.231-.246.

- My scholarly research on Michigan's adoption records management in my book, called *You Don't Know How Lucky You Are*, referenced in my request, is carefully indexed and researched and includes an extensive analysis of how the MDHHS treats adult adoptees and manages records. It provides clear evidence on my use of Michigan's public records, which I have published in the public's interest to explain and document how state agencies make policy and implement laws. See the index I have published that is available to anyone now with access to the internet (via the Amazon website where my work can be ordered):  
[https://www.amazon.com/dp/0692821562?ref\\_=pe\\_870760\\_150889320](https://www.amazon.com/dp/0692821562?ref_=pe_870760_150889320).

3) The reply rejecting my fee waiver failed to explain or show why a fee waiver request was rejected. Therefore it fails to address a requirement of the statute allowing for fee waivers. By not including any explanation why the MDHHS did not allow for a fee waiver allowed by law, the fee charge is arbitrary and capricious and not consistent with state law.

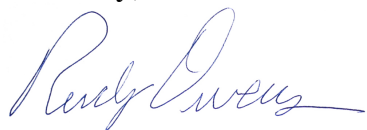
4) The fee charge violates Michigan's FOIA law by not using the lowest paid employee for an hourly charge for all of the reported labor in the invoice. The law states: "If a public body charges a labor fee, it is supposed to limit the charge to the hourly rate of the lowest paid employee capable of doing the work. So, for example, a public body isn't allowed to charge a lawyer's hourly rate for copying work that can be done by a clerk at a lower rate." What's more, the law further states: "A public body may not charge a fee for the cost of its 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."

5) The fee charge contradicts guidance from the state Attorney General on not charging fees for FOIA requests. In his clearly worded statement on the interpretation of fee charges within the state's FOIA statute, Attorney General Frank Kelley was clear that costs for any means of reproduction, if they were charged, were to be applied at the most cost-effective means possible for the petitioner. He noted: "Section 4 of the FOIA is very specific in authorizing charges, regulating those charges and permitting deposits." Attorney General Kelley stated:

"In calculating the costs under subsection (1), a public body may not attribute more than the hourly wage of the lowest paid, full time, permanent clerical employee of the employing public body to the cost of labor incurred in duplication and mailing and to the cost of examination, review, separation, and deletion. A public body shall utilize the most economical means available for providing copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection. [ Emphasis added.] (See attached opinion with this communication and and: State of Michigan, Frank J. Kelley, Attorney General, Opinion No. 6923, October 23, 1996;  
<https://www.ag.state.mi.us/opinion/datafiles/1990s/op06923.htm>)

What's more Attorney General Kelley made clear that a fee for a FOIA request should not be required: "A public body is not at liberty to simply 'choose' how much it will charge for records. To permit such action would effectively allow the public body to override the directive of the Legislature. It should be remembered that under the FOIA statute the public body may, but is not required, to charge for the copying of public records. [Emphasis in original.]"

Sincerely,

A handwritten signature in blue ink, appearing to read "Rudy Owens". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rudolf Scott-Douglas Owens/Rudy Owens

*[This copy of the latter corrects my submitted appeal letter that incorrectly listed the fee as \$1,166.44]*