



Bryon Black
Frederick County Public Information Act Representative
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Via email to: BBlack@frederickcountymd.gov
(Also submitted through Frederick County on-line PIA system)

September 21, 2026

Mr. Black:

Public Information Act Request

Pursuant to the Maryland Public Information Act, Md. GP § 4-103(a), Sugarloaf Alliance makes the following request.

BACKGROUND

Between at least August 9, 2023, and September 20, 2023, Frederick County negotiated a Non-Disclosure Agreement (NDA) with Rowan Green Data LLC (also known as Rowan Digital Infrastructure)

On September 20, 2023, Martin Romo, Rowan's Senior Director of Economic Development & Policy, emailed a signed copy of the NDA to Frederick County. The NDA was signed on September 21, 2023, by Morgan O'Neill, Rowan Green Data LLC's AGC and Secretary.

The partially executed Frederick County / Rowan NDA also included two Attachments, A and B. Attachment A contains a list of Frederick County offices and departments. Attachment B is a signature page for the NDA to be used by representatives of the different offices and departments.

DEFINITIONS

(A) Any reference to Frederick County, or a department or subdivision, thereof, includes any person working for Frederick County, the department or subdivision whether an elected or appointed official, or employee.

(B) Emails refers to the full content of electronic messages exchanged between two or more parties. Email records include the date sent, the names and email addresses of those sending the message, the names and email addresses of those receiving the message, a "Subject" line for the message, the full text of the message, *and any attached files*. Should an email include a

repetition of previous messages in the chain, all the included messages should be considered part of the responsive email.

(C) If any employee or official of Frederick County used a personal email account to conduct county business, then this request extends to those personal email accounts as well.

REQUEST

Sugarloaf Alliance requests all records related to Frederick County's execution of the Rowan NDA, or in the alternative, records related to Frederick County's rejection of the NDA.

Records responsive to this request will include, but are not limited to:

All signed (fully executed) copies of the NDA and or Attachment B;

All internal Frederick County emails distributing, discussing, or receiving copies of the NDA and or Attachment B; and

All emails exchanged with Rowan, after September 20, 2023, 10:43pm, related to the NDA or its attachments. This includes all emails related to the implementation of the NDA if it was signed by both parties.

It is likely that the following email addresses will be associated with the records requested here:

Martin Romo mromo@rowan.digital
Xiomara Gerlach xgerlach@rowan.digital
Bryon Black BBlack@FrederickCountyMD.gov
Lara Fritts LFritts@FrederickCountyMD.gov
Troy Bolyard TBolyard@FrederickCountyMD.gov
Andrew Ford AFord@FrederickCountyMD.gov

We would like the electronic records to be provided in a searchable and analyzable format.

If any of the records contain material that is not releasable, please redact that part of the text and disclose the remainder. For each redaction, please specify the specific legal basis for your decision.

FEE WAIVER

The mission of Sugarloaf Alliance is to protect the unique natural and historical aspects of the Sugarloaf Mountain area and its environment through education and initiatives in support of watersheds, streams, meadows, forests, and historic sites. Working with volunteers, civic groups, and local, state, and federal agencies, the organization's primary goal is to preserve the unique character and serenity of the area for future generations. Sugarloaf Alliance is a 501(c)(3) organization.

“The purpose of the Maryland Public Information Act is virtually identical to that of the [Freedom of Information Act] FOIA: to provide the public the right to inspect the records of the State government or of a political subdivision. Moreover, the historical development of portions of the MIPA parallel those of its federal counterpart. Under these circumstances, the interpretation of the FOIA by federal courts is persuasive.”¹ FOIA law dictates that “documents shall be furnished without charge or at a charge reduced ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”² The Appellate Court of Maryland (then the Court of Special Appeals) has endorsed this reasoning, “moreover, the federal Freedom of Information Act contains a similar fee waiver provision at 5 U.S.C. § 552(a)(4) *which has been liberally construed in favor of the media or other requesters who will provide broad public dissemination of the information sought.*”³

It is likely that this request and the necessary review will take more than two (2) hours. Pursuant to the MIPA § 4-206(e), we hereby request that all fees associated with these disclosures be waived. Sugarloaf Alliance has very limited resources and the cost of search, review, and other fees would be prohibitive.⁴

This request is purely in the public interest. Sugarloaf Alliance will derive no commercial benefit from this request. The records sought bear directly on matters of significant, ongoing public controversy. The records illuminate the conduct of public business and the operations of Frederick County government. Sugarloaf Alliance has the proven ability to distribute the responsive records to the public in a way and in a form useful to the community.

Public interest and controversy about Frederick County data center policy and regulations

Frederick County data center development is of significant public interest and controversy. Data center development in Frederick County is a topic of wide community engagement and debate. Local media coverage mirrors the wider public interest in county data center policy. The Frederick News-Post has run several dozen articles and letters-to-the-editor directly addressing the local controversy over data center development.⁵ The depth and breadth of public engagement on this topic makes clear that this is a matter of local controversy and community interest.

In June 2023, the County Executive signed a moratorium on piecemeal rezoning, specifically targeting data center development. In the executive order she stated, “the construction and

¹ Police Patrol Sec. Sys. v. Prince George's County, 378 Md. 702, 724, 838 A.2d 1191, 2003 Md. LEXIS 823 (Md. 2003) (internal citations omitted.)

² Larson v. CIA, 843 F.2d 1481, 1482-1483, 269 U.S. App. D.C. 153, 1988 U.S. App. LEXIS 4615, 15 Media L. Rep. 1961 (D.C. Cir. 1988)

³ Emphasis added. Baltimore v. Burke, 67 Md. App. 147, 156, 506 A.2d 683, 1986 Md. App. LEXIS 297 (Md. Ct. Spec. App. 1986)

⁴ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See pages 55-56.

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https://www.fredericknewspost.com/search/?f=html&t=article%2Ccollection%2Cvideo%2Cyoutube&s=start_time&sd=desc&l=25&nsa=edition&q=%22data+center%22

operation of data centers *raise significant concerns for the communities* where they are located.” (Emphasis added)

Also in June 2023, the County Executive created a Data Centers Workgroup to examine the impact of this new industry on Frederick County. “The data center industry brought economic and tax benefits to Northern Virginia, and it also brought concerns about environmental sustainability, energy and water usage, noise, vibration, and impacts on the quality of life,” County Executive Fitzwater said.⁶ “This community-led, government-informed workgroup will consider the issues surrounding data centers in an open and transparent public process and issue recommendations for the County Council to consider.”

This PIA request will directly illuminate the mechanics of County interaction with data center developers. During her introduction of the CDI revisions the County Executive said, “[The Data Centers Workgroup] worked diligently to find common ground, *despite diverse and sometimes competing viewpoints*. In the end, our goal is the same: to ensure data center development occurs responsibly.”⁷

The County Executive also noted the need for the public to have full access to the debate over data center regulations. “I respect the public process and the workgroup’s final report, and I believe this *discussion about data centers should continue in a public forum*.”⁸ It is clear that the County Executive considers this to be an issue of significant public interest and controversy.

Judicial findings on documents from the Amazon / Frederick County activities

Recent judicial decisions also show that release of data center development records is in the public interest. At the conclusion of a court proceeding on the release of county records related to data center development in Frederick County by Amazon, Frederick County Circuit Court Judge Greenberg stated, “The court finds significant public benefit to the disclosure of these documents.”⁹ The court further found that the Amazon affair was “certainly a matter of public concern.” He added, “Transparency in government is critical to the public interest.”

Judge Greenberg found that records related to the Amazon affair, data center development, and the associated Critical Digital Infrastructure legislation, “were of legitimate public interest and did not personally benefit [Sugarloaf Alliance].”¹⁰ He also described the records, analogous to those sought here, as “important information that was of interest to the public.”

⁶ see <https://frederickcountymd.gov/8544/Data-Centers-Workgroup>

⁷ Emphasis added. Press Release, 9/19/2023. “County Executive Puts Forward Legislation Based on Data Center Workgroup Recommendations”.

⁸ Emphasis added. Press Release, 9/19/2023. “County Executive Puts Forward Legislation Based on Data Center Workgroup Recommendations”

⁹ “Opinion and Order Regarding Attorney’s Fees”, 9/28/2023, In the Matter of Sugarloaf Alliance, C-10-CV-22-000369.

¹⁰ “Opinion and Order Regarding Attorney’s Fees”, 9/28/2023, In the Matter of Sugarloaf Alliance, C-10-CV-22-000369.

Addressing the ongoing NDA and data centers controversies

Failure to provide a fee waiver will exacerbate the ongoing controversy and cast doubt on the transparency of county operations and governance.¹¹ Past county actions to improperly withhold public records have created a controversy regarding data center development.¹² Further action by the county to conceal public records related to data center NDAs will certainly exacerbate this public controversy.¹³ The denial of a fee waiver would serve effectively to block public access to these records and create yet another cause for public concerns about the open and transparent operation of county government.¹⁴ Ameliorating citizen concern about an ongoing controversy is clearly in the public interest, as is the avoidance of creating new controversies.

Increasing public understanding of the operations or activities of county government

The records sought here all deal directly with the core operations of Frederick County government. NDAs and data center development are parts of the ongoing activities of county government. The fact that these records have been inaccessible to the public only increases the value of their release. Because of its potential impact on land planning and zoning to economic development and tax policy, these records can shine a bright light into an otherwise unknown areas of government activities.

Examination of the interaction of county government with individuals seeking data center developments will educate the public as to the government's balancing of land planning, preservation, and development activities with the public's right to an open and transparent governmental process. The documents requested here will directly support these education efforts. Because there is very limited public information on Frederick County Government's confidentiality agreements with data center developers, the requested records will vastly increase the public's understanding of these actions and this history.

Responsive records will be analyzed and distributed to the public

Documents responsive to this request will be widely publicized and distributed by the Sugarloaf Alliance.¹⁵ We intend to post the raw documents and relevant commentary on the Alliance web site, post to relevant social media sites (Facebook, Instagram, LinkedIn, or X), directly email to parties supportive of the Alliance's work, brief local and national journalists, and introduce them into the record during official county government meetings. The Sugarloaf Alliance intends to widely distribute the produced materials to journalists and the public so that the electorate can

¹¹ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See page 58.

¹² Editorial, *Frederick News-Post*. "Development of public policy needs to be done in view of public." (6/30/23) and Shifra Dayak and Gabrielle Lewis, *Frederick News-Post*. "Released records: Amazon had hand in drafting data center zoning policy." (6/16/23)

¹³ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See pages 50 and 60.

¹⁴ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See pages 4 and 59.

¹⁵ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See page 53, footnote 28.

have a more informed understanding of Frederick County's data center history, policies, and intentions. ***The Sugarloaf Alliance has a significant track record of publicizing the results of its PIA efforts. (See: www.SugarloafAlliance.org)***

The Sugarloaf Alliance has no commercial interest in the requested disclosures. The burden of this request on the county is reasonable given the scope and duration of the county's interactions with Rowan and associated developers. Given the highly specific search terms and limited temporal range, and the ease with which electronic records can be searched, this request should be simple, although possibly time consuming, to fulfill.

We are happy to view the request for, and release of records related to this NDA as an iterative process.¹⁶ As the Court has said, "When the requestor and agency work together, the process approximates the purpose and policy of the PIA." Should the initial search yield an unexpectedly large number of results, please communicate this to us at the earliest opportunity so that we can assist with the redesign of the search to speed the response process and reduce the burden on the county.

Should you have uncertainty about the public interest of this request please communicate those questions so we can fully clarify the situation.¹⁷ If you have concerns about any relevant factor(s) that we have failed to address here please allow us to further explain the pure public interest in disclosure of these records.¹⁸ If you know of any facts that suggest our fee waiver request should be denied, please inform us so that we can address or rebut any misconceptions.¹⁹ ***Disclosure is fully and solely in the public interest and any associated fees should be waived.***

Thank you for your attention to this matter. We look forward to your earliest response.

Sincerely,

Stephen Black,
President
Sugarloaf Alliance
Email: Steveblack2313@Gmail.com

¹⁶ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See page 9.

¹⁷ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See pages 2 and 54.

¹⁸ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See page 62, footnote 36.

¹⁹ Supreme Court of Maryland. *Baltimore Police Department, et al. v. Open Justice Baltimore*, No. 20, September Term, 2022. Opinion by Biran, J. See pages 38-40.