
FOIA Peanut

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To: Phil & Jean Lohr <plcam68@gmail.com>

Mon, Mar 23, 2026 at 3:15 PM

Hi Phil —

Just a point of clarification here. The county is citing 2.2-3705.6(3), which is an exemption for proprietary data used in the development/retention of new/existing businesses. Though the phrase “pursuant to a promise” is used in that exemption, that is not necessarily the same thing as an NDA.

NDA — contract signed not to talk about certain information. This is about what the people can say publicly. It does not provide an independent basis to withhold records.

2.2-3705.6(3) — a discretionary exemption that allows records containing proprietary information to be withheld if the public body has made a promise not disclose them.

“Promise of confidentiality” — can be oral, can be written. It is a promise by the government not to use their discretion to release the records.

These may seem like distinctions without real differences, but I just want to make sure you and your colleagues don't get dinged by the county for terminology.

Megan

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