

COR #999

---Original Message---

From: Whipple, Jacqueline M (UMC-Student)  
Sent: Thursday, February 15, 2007 8:21 AM  
To: Russell, David R. (UM)  
Subject: Sunshine Request

David R. Russell, Chief of Staff; Office of the President; 321  
University Hall; Columbia, MO; 65211:

This is a request for records under the Missouri Sunshine Law, Chapter  
610, Revised Statutes of Missouri.

I request that you make available to me all records that relate to the  
MU Spa between the Recreation Complex and the University Department of  
Dermatology, from its conception, planning and developmental process,  
its construction, to present day. I also request that you make  
available to me all records that relate to the MU Spa between the  
Recreational Complex and any and all parties related to the bid process  
to award renting of space and construction of the Spa.

I request that the records responsive to my request be copied and sent  
to me at the following address: 221 S. Eight St.; Attn: Jacqueline  
Whipple, reporter

I request that all fees for locating and copying the records be waived.  
The information I obtain through this request will be used for the  
public interest in a published news story for informational purposes  
relating to our function as a media outlet and public informer.

If portions of the requested records are closed, please segregate the  
closed portions and provide me with the rest of the records.

Jacqueline Whipple, (573) 489-8921, jmw6d9@mizzou.edu

-----Original Message-----

From: Russell, David R. (UM)

Sent: Thu 1/17/2008 4:08 PM

To: Whipple, Jacqueline M (UMC-Student)

Subject: RE: Sunshine Request

Dear Ms. Whipple:

This is in response to your open records request (below and attached) for documents related to the contract between the University and Tan Time LLC, which operates a tanning salon on the campus of the University of Missouri-Columbia, and any documents having to do with possible negotiations to terminate the contract.

I have identified documents related to the agreement between the parties; however, copies of these same documents were sent to you on Feb. 20, 2007 (COR #999 Whipple and Spa). I am aware of the existence of other documents related to Tan Time LLC's relationship with the University; however, these documents are protected from disclosure by Section 610.021(1), RSMo, as it relates to "...legal actions, causes of action, or litigation...." Thus, I do not have any new documents that I can provide you beyond those you received last year.

Please contact me if you have questions.

Regards,

David R. Russell

Chief of Staff

-----Original Message-----

From: Whipple, Jacqueline M (UMC-Student)

Sent: Friday, January 18, 2008 6:01 PM

To: Russell, David R. (UM)

Subject: RE: Sunshine Request

Hello again,

Thank you for your response email. While it is not my desire to receive privileged material or materials that are prohibited under that section of the MO Revised Statutes, I believe I may still be entitled to some documents pertaining to the discussion of contract termination between the UM system and Tan Time LLC. If there is correspondence or a letter sent to Tan Time LLC from the University dealing with the termination of the contract under its sections B (6, 7) or section C, I feel such documents do not fall under MoRS section 610.021 (1). While a legal dispute may have arisen from sending such a letter, the letter itself and the initial response are not legal action. These documents are merely the implementation of specific terms of the contract. If, however, the definition of "legal action" in the MO Sunshine Law encompassed these documents, I believe I am still entitled to them because they are no longer pending. Also, if there has been any litigation or legal action that is protected by the MoRS section, I request copies of the settlement if, or as soon as, one has been reached. Thank you again, and I look forward to your reply.

-----Original Message-----

From: Russell, David R. (UM)

Sent: Wed 1/23/2008 4:24 PM

To: Whipple, Jacqueline M (UMC-Student)

Subject: RE: Sunshine Request

Dear Ms. Whipple:

I did some checking. There are no documents in existence that are responsive to your request. No notice of termination has been issued, nor is one due. There are no settlement documents.

Regards,

David R. Russell

Chief of Staff and Custodian of Records

-----Original Message-----

From: Whipple, Jacqueline M (UMC-Student)

Sent: Thursday, January 24, 2008 11:10 AM

To: Russell, David R. (UM)

Subject: RE: Sunshine Request

Dear Mr. Russell,

It's possible that I've been requesting the documents I'm looking for incorrectly. Could you clarify the identity of the privileged documents you mentioned in your first response so that I can decide what further steps to take? I am not requesting you to divulge their substance, but merely what qualifies them as closed documents. If those documents are communication between the UM system and its own attorney(s), or are attorney work product such as notes, etc., then I concede their privileged status. If, however, they include correspondence between MU attorneys and Tan Time LLC's attorney that announces a dispute or a contract termination, I believe they would be discloseable as they would not be actual litigation.

I'm trying to understand whether or not the University has decided to retain the tanning facilities in the Recreational Complex despite potential health risks, or has instead decided to remove them because of safety concerns. If there is another way I can obtain documents of this nature, please let me know. Thank you,

Jackie Whipple

-----Original Message-----

From: Russell, David R. (UM)

Sent: Thu 1/24/2008 4:09 PM

To: Whipple, Jacqueline M (UMC-Student)

Cc: Vest, Teresa; Zeilenga, Jeff R.

Subject: COR #1233 Whipple & Tan Time LLC

Dear Ms. Whipple:

As the University's Custodian of Records, all I can do is conduct a search for documents that are responsive to your request. I have done so and found

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that the only records in the University's possession that might be responsive are protected by the provision in the open records law having to do with "...legal actions, causes of action, or litigation...." I have not identified any other records pertinent to your inquiry, including any having to do with a dispute or contract termination involving Tan Time LLC.

At this point, I believe that you would benefit from talking to a campus representative who is responsible for the various services being provided to students, including this particular vendor. I have been advised that Mr. Jeff Zeilenga, 882-5397, Assistant Vice Chancellor for Student Affairs at MU, is in the best position to respond to your questions about the status of the University's contract with Tan Time, LLC.

Regards,

David R. Russell

Chief of Staff

-----Original Message-----

From: Whipple, Jacqueline M (UMC-Student)

Sent: Thursday, January 24, 2008 7:57 PM

To: Russell, David R. (UM)

Subject: RE: COR #1233 Whipple & Tan Time LLC

Dear Mr. Russell,

I've previously corresponded with Jeff Zeilenga via email and he explained that he does not comment on contract renewals/terminations. Thank you, though, for the contact. I have just a few more questions about the documents you've discovered that claim the "...legal actions, causes of action, or litigation..." privilege. If these are legal documents that have actually been filed, in what court can they be found? If they have not been filed, then are you interpreting the language of the open records law to include the future possibility of "legal action, causes of action, or litigation"?

Thank you,

Jackie Whipple

-----Original Message-----

From: Russell, David R. (UM)

Sent: Sun 1/27/2008 5:58 PM

To: Whipple, Jacqueline M (UMC-Student)

Cc: Banken, Mary Jo (News Bureau)

Subject: COR #1233 Whipple & Tan Time LLC

Dear Ms. Whipple:

I have been advised that no documents have been filed in court. Thus, the

answer to your last question is "yes."

You can call me at 882-1998 if you still have a question about my response regarding documents. All other questions should be addressed to the MU News Bureau at 882-6211.

Regards,

David R. Russell  
Chief of Staff and Custodian of Records