

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
August 11, 2014

The City Council of the City of Milford met in Workshop Session on Monday, August 11, 2014 for FOIA (Freedom of Information) training in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, S. Allen Pikus, Owen Brooks, Jr., and Douglas Morrow, Sr.

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/  
Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

The Workshop Session convened at 5:35 p.m.

*FOIA Training/DAG Edward Black/Attorney General's Office*

Also present were Deputy City Clerk Christine Crouch and City Office Assistant Katrina Wilson as well as members of the City of Milford's Planning Commission and Board of Adjustment.

Solicitor Rutt introduced Assistant Attorney General Edward Black as the current FOIA expert for the State Attorney General's office. Anytime a FOIA complaint is filed, he investigates it and provides an opinion.

Mr. Black emphasized that he is not present as the city's lawyer. He represents various agencies but the Department of Justice does not represent municipalities.

He explained that the most recent amendment to the FOIA law states that his training sessions are not to be considered legal advice which prevents any ethical problems. David Rutt, the city solicitor, is the attorney responsible for providing the city with advice.

Mr. Black explained that the push for FOIA or government transparency nationally came as a result of the Nixon Administration and some of the things the Frank Church Committee discovered in their investigations. The Delaware Attorney General's Office swings toward transparency. He explained there are no black and white answers to every question, but there are two things that cannot be ignored. One is the general assembly who has the authority to change the statute and the other is the political environment.

He then referenced a presentation and explained the general assembly started Chapter 29, Chapter 100 of the Delaware Code, with a declaration of policy which reads as follows:

"It is vital in a democratic society that public business be performed in an open and public manner so that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy; and further, it is vital that citizens have easy access to public records in order that the society remain free and democratic. Toward these ends, and to further the accountability of government to the citizens of this State, this chapter is adopted, and shall be construed."

Mr. Black stated that two critical areas come out of the declaration. The policy allows citizens to observe and monitor; however, it says nothing about participating. As council is making decisions that could implicate FOIA, they should consider whether they are giving citizens ample opportunity to observe and monitor.

He had a situation recently that involved a controversial board of adjustment zoning hearing in a municipality. They

expected a big crowd and the municipality reserved the largest place they could find within their boundaries though it was not big enough.

He explained that to observe and monitor does not mean each sides is allowed the same number of people. Mr. Black added that because it wasn't a public hearing, they were unable to speak anyway.

The other thing the declaration addresses is determining what a public body is. If it is not a public body, there is no open meeting requirement and public records are not needed. When there is a public body, there is the requirement for open meetings and the disclosure of public records.

Mr. Black pointed out that the latest amendment to FOIA requires him to provide training sessions. The FOIA manual must also be revised every two years. His office will review the manual for approval on September 21<sup>st</sup>. Better information will be available by updating the manual in terms of what the statute now states and the opinions rendered in the interim.

In addition to the general opinions published on the AG's website, a synopsis of each opinion is now required. This prevents having to read the entire opinion to find out what was involved.

Mr. Black then referenced public bodies. He reported that several school boards in New Castle County got into the habit of noticing an executive session prior to their regular board meeting. They would then meet at a set time in the cafeteria and have dinner. He emphasized that is not legal. In order to go into executive session, you must first go into regular session. He explained it was a public body that consisted of a quorum and while they were having dinner, they discussed business.

The school board also decided it would be a good idea to exchange ideas on a regular basis. Monthly, the superintendent and one board member from each school district would meet for breakfast on a rotating basis. He emphasized that is a problem because it is a public body.

The definition of public body is defined in the law as:

Public body means, unless specifically excluded, any regulatory, administrative, advisory, executive, appointive or legislative body of the State, or of any political subdivision of the state...

...A legislative or executive branch, agency, board, committee, subcommittee or group established by an act of the General Assembly or a body established by the General Assembly.... appointed by a state body or public official...

...Those bodies that are supported in whole or in part by public funds, expends or disburses grants/gifts, and impliedly or specifically charged to advise or make reports or recommendations...

Mr. Black pointed out that people find themselves in trouble in a variety of circumstances.

He advised that exempt bodies are any caucus of the House or Senate, University of Delaware and Delaware State University and courts are exempt except for meetings of the Boards of Trustees. Public bodies having one member, such as a governor, mayor or city manager are exempt.

A body of one can also appoint committees that are not public bodies. For example, if the mayor calls the meeting of city employees, that is not a public body.

Mr. Pikus asked if the mayor can meet with one or two councilpersons; Mr. Black said that depends on what he is up to. What the mayor cannot do through meetings, phone calls or e-mails, with a sub quorum of council, is try to persuade council to take some sort of action. He cannot legally campaign or solicit council. He can take greetings and can ask councils' opinion. However, there is a problem if he tries to persuade what will become a quorum.

A question was asked if the city manager or mayor can solicit the planning commissioners. Mr. Black said the mayor cannot campaign by going to one member at a time. When asked how someone would know this had occurred, Mr. Black said a person would file a FOIA request and any e-mails would have to be provided. Even though he is a body of one, that does not make him exempt from public observation.

Mr. Black further explained that it is not necessarily the consensus of the quorum, but the idea that citizens have the ability to observe and monitor. If deliberations are needed on an issue, it must be done in public. There are very few exceptions though one is executive sessions.

The question was then asked what the planning commissioners can discuss with one another about the agenda prior to the meeting. Mr. Black said it can be asked what you think; what a planning commissioner or council member cannot say is...I think we should do this, here is why and do you agree and if not, I want to hear your reasons. Mr. Black said that will get someone in trouble very quickly.

The city manager asked how much leeway he has to call individual members of the body and the mayor to discuss a project for example. He said it sounds like he needs to be careful when trying to solicit support to vote for a project that he wants done. Mr. Black explained the city manager is a body of one so he is exempt from open meetings. He does not have to send notice or put out an agenda. He has the right to call a mayor or one council member and say this is what I am thinking about. That can be done because he is only a body of one.

Mr. Carmean asked if he can physically meet with them in his office; Mr. Black explained the same thing applies. The method does not matter which is typically the way people get around this through e-mails, texts or telephones. They generally do not try to get around FOIA by meeting face to face. The point of Mr. Black mentioning electronic communications is because that will not work simply because it is not face to face because it is the same situation as being face to face.

Mr. Pikus explained that we are a city manager form of government. He asked if the city manager can call and ask one councilperson about something happening, then call another councilperson and ask him. Mr. Black said that is fine. However, what gets someone in trouble is when it becomes a quorum and whether it is only a body of one or is the city manager looking for council to take action on something. If he is looking for action from council, then it needs to be looked at from the council side and not as a body of one.

Mr. Black said the city manager can try to persuade less than a quorum without having an open meeting, but once you get to a quorum, it becomes a problem. He explained that is a quorum in the aggregate because we are not talking about a quorum of a quorum.

Mr. Black then reviewed the public record requirements. Each public body is required to appoint a FOIA coordinator and develop a web portal for receiving FOIA requests.

Also added this year is the requirement for a public body to provide a physical address. Public bodies must also provide reasonable assistance to the public in identifying and locating records. When someone requests copies of minutes since 2004, he said they are really not entitled to that. However, they are entitled to come in and look at those minutes. If they request copies, a policy can be established that includes associated fees. If not, they would need to abide by the state statute.

Mr. Pikus confirmed that if someone wants copies of meeting minutes, we can charge for that; Mr. Black said they can be charged for the copies. He said the city has the right to charge those fees up front.

In addition, the requestor can be charged the lowest pay rate of a person qualified to handle the request. When the request is received, the number of pages should be determined and the amount of time estimated to comply with the request. An estimate, itemized budget is then created and presented to the requestor. Until the fee is paid, the work does not begin. They should also be informed that when the money runs out, they will let them know.

Mr. Pikus then asked if council is sitting in session and either the city manager, council person or the mayor asks our city solicitor to render a decision. The city solicitor quotes a decision rendered by the courts. A person then requests a copy of the decision which must be provided by our city solicitor. He asked if we can charge the requestor the fee the attorney will charge the city.

Mr. Black explained that answer is neither/nor. The requestor should be steered toward the internet or direct them to the nearest law library and told it is not a record of this body.

The city manager asked and Mr. Black confirmed that if someone requests a bid document that was passed and accepted by council, we could not charge that person for the associated cost of our engineers to prepare the bid document and instead could only charge them the costs of reproducing it. Mr. Black said there is another twist on that and what happens when fifteen different people ask for the same document. If the requestor was charged the engineer fees, would they be spread among all fifteen or only charged to the first person.

Mr. Black stated the city is only required to provide reasonable assistance in identifying and locating records. Once it gets to the point of research, the cost needs to be estimated in terms of a budget that would include how much time it will involve, the employment cost of the lowest paid, qualified person who can perform the task and duplicating fees. The requestor should be sent the estimate with a tag line stating this is only an estimate and we are unable to begin work until the estimate is paid. We will then inform you if it is more than the estimate.

Someone asks the typical cost charged by the city for a FOIA request. The city clerk explained it depends on the request and the work and time involved. If it is a one page document that is readily available, there is no charge. The majority of persons requesting information are referred to the city website.

Mr. Black explained that a response to a FOIA request is required within fifteen business days though that does not mean 'reply'. If it results in voluminous documents, the requestor should be informed that a budget is being prepared and an estimate will be provided soon.

Mr. Rutt pointed out that it is necessary to promptly request non-custodial e-mails and other records and asked Mr. Black to expand on that matter. Mr. Black noted that it does not just apply to e-mails. He explained that a non-custodial e-mail is an e-mail that is not in the custody of the city. Generally, an e-mail goes from one person to another person. One of those persons involved may not be an employee or related to the City of Milford. Most public bodies have a record retention policy. Often those records are destroyed.

He explained the first thing the city needs to do is have the house locked up and not allow any e-mails to be erased due to a pending FOIA request. The next thing is to make the same request of the other party. It is not just communications. For example, an IT firm is hired by the city and a relational database is created for the town's use. If someone wants a copy of the database and the city says they do not have it because it is not in the city's custody but instead is on our contractor's computer.

Mr. Black emphasized that will not work. That is non-custodial property actually belongs to the city because the city paid for. The city is responsible for obtaining it.

In a recent case, DelDOT was selling advertising for a law firm on the back of their buses. Another attorney got upset because it was an exclusive deal. DelDOT had contracted with an ad agency to sell advertising only. They had control only to the extent that they had to approve the copy. The terms of the contract were negotiated by the ad agency and DelDOT only received the money. He explained this is a slightly different situation because the contract requested was not the property of DelDOT. The only contract DelDOT had was with the ad agency.

The attorney general's office has made the distinction that public records can be in someone else's possession if they are the actual property of the public body. Something in someone else's possession that is not property of the public body is not.

The DAG then reviewed other items that are exempt and specifically personnel, medical and pupil files. Information such as home addresses, telephone and social security numbers should be redacted.

Mr. Black said they have had a lot of questions where a vendor claims that the release of certain documents would put them at a competitive disadvantage or in some manner a 'trade secret'. They received one request for records that involved seventy suppliers and all but eleven provided the information. He reported that because the vendor claims it is a trade secret does not necessarily make it so.

He noted that investigatory files are also exempt. Exemptions continue after the file or investigation is closed because of the information it contains such as the name of a confidential informant.

Included in the exemption are civil, personnel and housing code investigations or similar investigations.

Criminal files and records are exempt. However, any person can request and obtain a copy of their own criminal record but not the investigative file. Files can be provided but witnesses, confidential info and other privileged information would need to be redacted.

All other criminal records are exempt from public scrutiny.

Other records exempted by statute or common law include HIPAA, tax info, documents filed under seal, etc.

The city manager then referenced utility bills and asked if the information contained on the bill is privileged only to that account. In particular, he asked if the tenant billing information can be provided to the landlord; Mr. Black pointed out that should be determined by the city solicitor. However, the immediate red flag is that it could be a violation of privacy.

Mr. Pikus confirmed that a person's electric bill is their private information; Mr. Black referenced the first exemption and said it cannot be entirely private because the electric company generated it but there could be some information in the bill that might be considered private. He is unable to answer the question without more facts adding that over the years, courts have gone both ways on this matter.

He then explained that another exemption applies to records pertaining to pending or potential litigation which are not records of any court. Mr. Black said there is confusion about what is 'pending' because that means there is actual litigation. This has to be more than a possibility. When Mr. Black was in private practice, he would listen to a client and the question would follow if they could be sued for something. His answer was always yes, because you can be sued for anything as long as the filing fee is paid. As a result, anything has a potential for litigation but needs to be more defined and should involve a demand letter or an actual threat of litigation.

Mr. Pikus then asked about planning commission appeals. Hypothetically, he said the planning commission makes a decision and the public has observed every meeting leading up to that point. The applicant then decides to appeal the planning commission's decision. He asked if the meeting and documents leading up to that point are public records; Mr. Black said it is public because the record has to be filed to file the appeal. He explained that deliberations are what becomes exempt. It is a tighter rule when it involves an executive branch appointed board.

Mr. Black then reviewed meeting criteria that is subject to FOIA. The formal or informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business either in person or by video conference.

Mr. Pikus stated that after a city council meeting, a group of council members and city officials meet for dinner. A decision was made during a council meeting and a vote taken during the meeting. The group then goes to dinner. He asked if the matter can be discussed at dinner because final action has been taken. Mr. Black said yes unless the discussion turns to reconsidering the decision. It then is a problem and a FOIA issue. However, congratulating each other for a job well done is not a problem.

He then stated that meetings must be posted where they are typically held. If a meeting is moved to a different location, the meeting needs to be posted there as well.

The city manager then asked if before a meeting begins, it becomes evident that a larger facility is needed due to the number of people attending. He asked if we can put notice on our doors and move to another location. Mr. Black explained that falls under an adjournment for the purpose of reasonable accommodations. The announcement can be made that the meeting is being moved to another location and will reconvene in half hour.

Mr. Black explained that if it is determined a larger venue is needed, the longer a period before a meeting is scheduled to begin becomes more complicated. Once it has been determined, there should be an attempt to make reasonable accommodations. That could take time and most likely, the meeting would need to be postponed. He does not feel it would not fall under the definition of emergency.

Mr. Grier confirmed the postings on the door would cover this situation. Mr. Black said yes in addition to posting the meeting as is normally done. That notice would contain the new location and would need to be posted at city hall and the new location.

Mr. Black said the best way to handle it would be to reschedule the meeting. The issue then becomes if twelve hours advance notice is sufficient to post the notice at city hall and on the website. He feels the answer is probably no.

Mr. Rutt feels the best way to handle is to convene the meeting and announce that because of the large number of people present, the meeting is being moved to the library, for example. Mr. Black said that will work if the city has the ability to move to a large facility. The meeting would then be reconvened at the new location.

Mr. Pikus then pointed out that the mayor and four members of council may call a meeting according to the city charter. He confirmed that one council member may call a ward meeting; Mr. Black stated yes. Mr. Pikus asked if it is a public meeting and asked if minutes need to be kept. Mr. Black said it is not a public body at that point, but it could become a public body and is why there have been problems when this occurred. He said a ward meeting is called and the council representative asks to have the city manager there or the police chief there. He explained that has now become a problem because it is now starting to look like a public body that is there to conduct public business.

Mr. Pikus said, as an example, he wants to have a second ward meeting and asks the city manager to be there and asked if minutes need to be kept. Mr. Black said it depends on what is being done. Hypothetically, he said there are two council members from the same ward that want to have a ward meeting. They want to discuss what is on their constituents minds. A couple council members show up and they start talking about public business. This is then a public meeting and FOIA applies.

Mr. Pikus continued by stating there is no agenda for the meeting and the intent is to have an open ward meeting and if any citizen wants to ask any question and the city manager is there to respond. Mr. Black said the potential problem begins when the city manager agrees to attend.

Mr. Pikus asked if the best way to handle this is to take questions and provide those questions to the city manager or police chief to later handle. Mr. Black emphasized that is the way local government is to be handled. He reiterated that FOIA requires observing and monitoring but not participation. With a ward meeting, there is an opportunity to participate. The ward residents can bring their questions or issues to that meeting.

Mr. Pikus asked who sets the agenda for a public meeting; Mr. Black said whoever is able to call the meeting.

In response to a question, Mr. Black explained that if a ward meeting was scheduled and several members of the public body end up attending, there is the potential that an issue would be brought up and opinions exchanged. The informational session then turns to deliberating public business and the fact that no agenda was posted is a FOIA violation.

A question was asked about a deadline for amending the agenda before a meeting, Mr. Rutt said an item can be removed though an item can be added up to six hours before the meeting. But the reason needs to be noted why it was added after the seven-day posting.

According to Mr. Black, an explanation needs to be added to the agenda stating the reason the item was added at the last minute.

Mayor Shupe then stated that a community meeting that would include city staff must be called by either the mayor or four or more council members.

Mr. Pikus asked if the city manager can call a meeting. Mr. Rutt and Mr. Black both stated the city manager does not have the right to call a meeting.

Mr. Carmean pointed out the agenda is either set or approved by the person who has the right to call the meeting which in Milford would be the mayor. Mr. Black said that hopefully everyone would cooperate with respect to calling a meeting as is done in most towns; the city manager agreed.

Mr. Black then noted that the standard for notice requirements for executive sessions is less stringent because the matter discussed are items that need to be kept confidential. By their very nature, should they become public knowledge would make it difficult to do your job. For example, a public body can go into executive session for legal strategy and potential litigation. However, more information is needed than simply reciting the statute though specific information is not required.

He warned not to confuse the exception for discussing an individual's qualification for a job with personnel matters. Personnel matters apply to people who are employed; qualifications for a job relate to people who are not employed.

Mr. Black explained the only thing that can be discussed in an executive session is the item(s) listed on the agenda under the executive session. Deliberating can be done in executive session but council must come out and vote publicly.

Some discretion is needed when an executive session is added to an agenda in order to keep the matter confidential; that is the reason the attorney general's office allows some leeway, though they want a little more than what the statute simply reads.

Mr. Black noted that the minimal requirement for meeting minutes are not very stringent though a stenographic record is not required. Recordings must be provided if someone requires that.

He reiterated that the attorney general's office is now required to provide annual FOIA coordinators training effective July 2015. The attorney general's website contains all opinions back to 1995.

When asked to elaborate more on serial e-mails, telephone calls and meetings of individual council members, Mr. Black expressed caution regarding long e-mail chains. He said the means of communication does not matter. In the eyes of FOIA, e-mail communication is the same as face to face communication. Instead of one councilperson sending an e-mail to the mayor, it is then forwarded to the city manager or police chief. Then the councilperson wants the opinion of yet another person. Suddenly, there is a quorum discussing city business. If that has occurred, FOIA has been violated. City business is being discussed via an e-mail, telephone or through meetings. That requires an agenda and recordkeeping. Mr. Black explained this is the most common way to violate the statute.

Though the easiest way to communicate is through an e-mail, that is the area where most people get into trouble.

Mr. Rutt added that also applies to phone calls where a councilperson goes right down the line and talks to one council member after another.

Mr. Black cautioned that solicitation regarding public business by any other means other than at a public meeting should be avoided. The public has the right to observe and monitor which means they are able to see the deliberations.

Mr. Carmean asked if there is a zoning application before the planning commission, can we contact them to persuade them to vote a certain way; Mr. Black feels that beside professional suicide, once the word is out that the city manager has taken a particular position, someone is going to be on the other side and it will become a big problem. When working in a public capacity, there are limits attached that do not apply to private citizens.

He said Mr. Carmean can talk to the planning commissioners about what he thinks, but cannot solicit or try to change their positions. He said this will get someone in trouble even though the two people talking are from different bodies. Even though that situation may not fall under the open meeting law, it will definitely create a political problem for the person.

Mr. Grier asked what kind of penalty is involved with a FOIA violation; Mr. Black pointed out the section 10005 addresses enforcement. He said that overall, any action taken at a meeting can be challenged in the Court of Chancery who can issue orders to do something or to stop doing something. Something could end up in Superior Court and involves money. If someone is denied access to public records, they can bring suit in Superior Court though the preference is to bring it to the attorney general's office first even though that is not required. The person would be provided attorney fees at a minimum. If they can prove they suffered other harm as a result of a FOIA violation, they can be awarded money as well.

Mr. Black then provided contact information adding that they are available at anytime. He concluded by reemphasizing that he is not Milford's attorney and he is unable to provide legal advice.

With no further business, the Council Workshop concluded at 9:07 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Terri K. Hudson, MMC  
City Clerk/Recorder

cc: AG FOIA Presentation



# Delaware's Freedom Of Information Act

## Overview of Public Records and Open Meetings Rights and Obligations

**Presented by Edward K. Black  
Deputy Attorney General**

Milford, Delaware

August 11, 2014

# OVERVIEW

- Delaware's Freedom Of Information Act
  - Open Records Provisions
    - ✓ What documents must be made available for public inspection?
  - Open Meeting Provisions
    - ✓ What meetings and discussions must be open to the public?
  - Education [effective July 1, 2015]
    - ✓ AG to publish biennially a FOIA coordinator manual, hold annual training seminar and publish on a website all FOIA opinions and summaries thereof.

# FOIA Policy Declaration

- Provides public with important rights to
  - observe the performance of public officials
  - monitor the decisions made in formulating and executing public policy
- FOIA is to be interpreted to further the accountability of government to the citizens of this State

# What Is A “Public Body”?

- Typically not an issue
- Issues arises when two or more people gather to discuss public business
- Issue is important because all public bodies have obligations under FOIA

# “Public Body” (continued)

- Any other legislative or executive branch agency, board, committee, subcommittee, or group
  - Established by an act of the General Assembly or a body established by the General Assembly
  - Appointed by a state body or public official, or
  - Otherwise empowered by a state entity
- That is
  - supported in whole or in part by public funds
  - expends or disburses grants/gifts
  - impliedly or specifically charged to advise or make reports or recommendations

# “Public Body” (continued)

- Exempt Bodies
  - Any caucus of the House or Senate
  - UD/DSU, except for Boards of Trustees
- Bodies Exempt from Open Meetings
  - Public bodies having only one member
    - ✓ Governor, Mayor, Town Manager, etc.
  - “Body of One” can appoint committees
    - ✓ Staff meetings?
    - ✓ Citizens, private sector?

# Public Records Duties

- Implement Policy for Addressing FOIA Requests
- Develop a Web Portal for Receiving FOIA Requests
- **NEW for 2014 [HB 322]:** Provide a mailing address for receiving FOIA requests through the U.S. mail
- Designate a FOIA Coordinator and identify on website
  - **NEW for 2015 [HB 321]** Public bodies must provide the name and contact information for its FOIA coordinator to the AG. Within 20 working days of any change of FOIA coordinator or the FOIA coordinator's contact information, public bodies must update website and notify AG.
- Provide Reasonable Assistance to the Public in Identifying and Locating Records
- Promptly Request Noncustodial Emails and Other Records

## Public Record Duties (continued)

- Conduct Diligent Search for Records
- Consultation with or Referral to Originating Body
- Respond Within 15 Business Days
- Make Records Available for Inspection and Copying
  - **NEW for 2015 [HB 323]:** Executive branch bodies required to publish an annual or biennial reports must post them on State website



# What Documents Are “Public Records” Under FOIA?

## ➤ Public Record Defined

- information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced.

## ➤ AGO Carve-Outs

- Working drafts
- Personal Notes

# Statutory Exemptions

- 1. Personnel, Medical and Pupil Files the disclosure of which would constitute an invasion of personal privacy
  - Should redact home address, telephone & SSN
  - Generally can't redact names, job, time sheets, attendance records, salaries or benefits for public employees except for
    - Retirees
    - Employees of DOT contractors
    - Tax, social security and elective deductions
    - Swat Member
    - Merit employees?

## Statutory Exemptions (continued)

- 2. Trade Secrets/Commercial or Financial Information Obtained from a Person which is of a Privileged or Confidential Nature
  - “Trade Secrets”
    - ✓ Secret formula, process, etc.
  - Commercial or financial information
    - ✓ List of assets & liabilities, P&L statement, tax returns
  - Obtained “from a person”