



Guy L. Patton,  
*President*

May 30, 2018

Mr. Fred A. Gipson  
3317 Cotswold Commons  
Norman OK 73072

Re: Open Records Request

Dear Mr. Gipson:

I am writing in response to your May 29, 2018 letter, in which you requested The University of Oklahoma Foundation, Inc. to provide information concerning the proposed arena and entertainment district at University North Park pursuant to the Oklahoma Open Records Act, 51 O.S. §§ 24A.1, *et seq.*

I was surprised to receive your request for several reasons. First, contrary to your assertion regarding the Foundation's "lack of transparency," the Foundation has provided plans, reports, and other relevant data concerning the feasibility and economic impact of the proposed arena and entertainment district in a transparent, collaborative fashion in a variety of public forums and through its own public website. The Foundation has been working in close contact with the mayor, members of the council, Norman city staff, and consultants to the city for almost a year. We have approached this opportunity in the spirit of a partnership with both the City of Norman and the University of Oklahoma and as such have consistently presented the community with the opportunity to discuss, debate, and disagree about the merits of our efforts to further develop University North Park. Your suggestion to the contrary is patently false and overtly political

Second, as you noted in your letter, you are former chief legal counsel of the University of Oklahoma. Consequently, you already should be well aware of the fact that the Foundation is separate and independent from the University and is not a public body. Because the Foundation is not a public body, internal documents and information maintained by the Foundation are not public records and are not subject to public access and review under Oklahoma's Open Records Act.

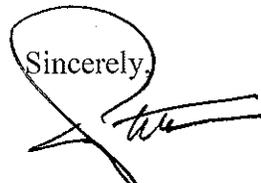
As you know, unlike many university foundations, the OU Foundation is separate and independent from the University of Oklahoma in all respects. The Foundation is not a subsidiary or affiliate of the University and is not directly or indirectly controlled by the University. In fact, the Foundation's certificate of incorporation and bylaws expressly prohibit persons affiliated with the University or any other state agency or board from serving as officers or trustees of the Foundation.

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Donations to the Foundation are for the benefit of the University but are not available for the general purposes of the University. The University is not accountable for, and does not have ownership of, any of the assets of the Foundation or the financial and capital resources of the Foundation. The Foundation exists to benefit the University but, in the final analysis, the Foundation is answerable only to its donors – not to the University (or the general public).

Further, as you know, the Foundation is not maintained at public expense. The Foundation does not receive any funding from the University and does not receive any state appropriations. The Foundation is not supported in whole or in part by public funds and is not entrusted with the expenditure of public funds or administering or operating public property; therefore, the Foundation is not a “public body” under the Open Records Act. Because the Foundation is not a public body, the documents maintained by the Foundation are not “records” as defined in the Act.

Because the Foundation’s records are not subject to disclosure under Oklahoma’s Open Records Act, we respectfully decline to provide the information you have requested in your letter.

Sincerely,  
  
Guy L. Patton  
President

Cc: Mr. Dee A. Replogle  
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