

# Finding Michigan Agency Materials<sup>1</sup>

By *Kimberly Koscielniak*

Finding administrative materials is often a daunting prospect for anyone who has not developed a working knowledge of a particular agency's practice and procedures. Each level—federal, state, or local—has its own unique system of promulgating, recording, preserving, and making public its rules, policies, guidelines, and decisions. Learning to navigate that system takes time and repeated exposure to its materials, not to mention some patience, a little humor, and a few good in-house contacts.

Librarians and general practitioners, who may be required to find a Michigan Tax Tribunal decision in one breath and plat requirements under the Land Division Act in the next, are not likely to develop a working knowledge of all the little bits and pieces, all the tricks and quirks of the agency's information system—of EACH agency's system—with which they must deal on an expedient,

yet thorough, basis. This article, then, is dedicated to us "sometimers," who must make a professional stab at doing research with agency information.

In terms of tracking down agency materials, the Internet, to put it in the vernacular, "rules." Michigan's executive agencies, boards, and commissions have put a huge amount of effort in the past few years into organizing their materials into coherent, navigable webpages for the general public and legal researcher alike. If you know or can determine what agency has jurisdiction over your situation, do not worry over the Michigan Administrative Code (at least not at this point); instead, follow one of the links below to find the requisite state agency website.

<http://www.mi.gov>

The State of Michigan website. In my humble opinion, the quickest and cleanest way into agency pages.



<http://mel.lib.mi.us>

The Michigan Electronic Library (MEL). Follow the link Government, Politics and Law to Michigan State Government and then Departments and Agencies. MEL's pages are put together and maintained by librarians and subject specialists throughout the state and often feature some description of a site that is helpful in determining if you are heading towards the correct agency.

<http://piperinfo.com/state/index.cfm>

Piper Resources' guide to state and local government-sponsored Internet sites is handy if you need material for jurisdictions outside of Michigan. The Piper site provides a nice alternative to FindLaw's ([www.findlaw.com](http://www.findlaw.com)) broader subject coverage.

A good agency website will act as a pathfinder for the uninitiated by providing access to the agency's statutory and administrative



## A Ready Reference List of Commonly-Used Agency Numbers and Services:

**State of Michigan Email Directory Online**  
[www.state.mi.us/dmb/ocat/directory/ldap.htm](http://www.state.mi.us/dmb/ocat/directory/ldap.htm)

**State of Michigan Telephone Directory Online**  
[www.state.mi.us/dmb/ocat/directory/](http://www.state.mi.us/dmb/ocat/directory/)

**Status of professional licenses**  
 On the Web, go to [www.mi.gov](http://www.mi.gov) and follow the State Agency Links to Consumer and Industry Services, then to Verify a License.

### Information on companies doing business in Michigan

Follow steps above to Consumer and Industry Services, choose Bureau of Commercial Services, then Corporation Division, then Business Entity Search. For information via telephone, call 517-241-6470.

### Information on Consumer Complaints filed with the Michigan Attorney General

To determine if a complaint has been lodged against a company, call 517-373-1140 or toll free at 877-765-8388. The Attorney General's Office will tell you over the telephone if there has been a complaint and how it has been resolved. Copies of materials in the case file are available only through a FOIA request. The office has also compiled a very good "Consumer Complaint Directory" at [www.ag.state.mi.us/cp/index.htm](http://www.ag.state.mi.us/cp/index.htm) to assist the researcher in directing an inquiry to the proper agency. Finally, the site has gathered often-requested Michigan laws dealing with consumer protection issues (like the "Lemon Law").

rules and (usually) its more current opinions, rulings, and decisions in one place. A well-organized and thorough website will help acquaint the researcher quickly with the agency's "universe," setting the groundwork for both probing the patron's or client's needs more thoroughly, as well as for approaching an agency representative for more information if required.

It is apparent that many Michigan agencies are setting up their sites with an eye out for John Q. Public—they have posted important forms, applications, and even entire agency manuals in PDF format. To those without a comprehensive legal library at their fingertips, such materials can save great amounts in postage, fax, and phone charges, not to mention time. A good website will also provide working contact numbers that get you to the right person should you have a question the website does not answer (try this with an ordinary phone book or even with the State of Michigan Telephone Directory, and you'll appreciate why Stanley was so delighted to find Dr. Livingstone). To take it a step further, an outstanding website will point to and provide direct links for the sites of other departments or divisions, state or otherwise, that share or compliment the agency's jurisdiction over a matter, relieving the researcher from painstaking double-checks in the Michigan Administrative Code and Michigan Manual to make sure she has really covered all the angles in a particular situation.

Now that I've extolled the virtues of Michigan administrative websites, I feel it is only proper as a librarian and a (rather obsessive) researcher to point out the limitations. One, basic, yet often ignored, caveat is that not *everything* is to be found on an agency's website. Your clients and patrons, a bit spoiled by all the Internet has to offer, simply won't believe you when you report this. Moreover, if you've ever had a conversation with an agency staffer who keeps insisting "it's all on the website," you have experienced the disheartening realization that sometimes the agency doesn't believe you either.

Levity aside, to say that this poses problems for the unwary or easily-placated is an understatement. To overcome the situation, the researcher must do two things—go back to the books and start asking questions. For

example, in the situation described above, the researcher may want to verify that she and the agency staffer are looking at the same site content. The staffer may be looking at an intranet or internal page and not the Internet site being viewed by the researcher. A quick comparison will, needless to say, alleviate much frustration and ill will between parties.

First, be aware of the currency of the materials you are looking at. Compare regulations found on the agency's website with the corresponding Michigan Administrative Code (MAC) sections (unless the agency has posted "internal regulations"—not likely—the agency rules and MAC sections are the same thing). The Michigan Administrative Code is found on the Office of Regulatory Reform's (ORR) site at <http://www.state.mi.us/orr/>.

The agency will often have a direct link to the ORR site, but it doesn't hurt to go in through ORR itself just in case the link is outdated. Individual rules can be quickly located through a department or a numeric index. The researcher can locate a regulation by subject with the index to the published MAC or by doing a keyword search on the ORR site. A keyword search will bring up revised, current, and proposed regulations. To pinpoint the current regulation, look for a link allowing you to "view administrative code text."

Again, be aware of currency issues. Even if a website carries a message that it is "updated daily," there is a possibility that this is not the case. Verify the currency of a regulation by looking at the Administrative Code Table in the latest edition of the Michigan Register, a biweekly publication used to update the published volumes of the Michigan Administrative Code, to see if the regulation has been amended. The latest cumulation of the Michigan Administrative Code is a ten-volume set current through January 1999 with a two-volume supplement current through January 2000. Beyond that, it is necessary to consult the monthly Michigan Register for regulation changes or repeals. (The prior MAC cumulation was published in 1979 and was updated by the Annual Administrative Code Supplement.) Now that the register is itself online on the ORR site, this last step is accomplished quickly and easily. The researcher can also check for proposed regulations by checking the Rules Under Review section.

Bear in mind when viewing regulations (or statute or legislative code sections) on "sites-with-a-cause," for example, private consumer or special interest sites, updating measures and precautions should be doubled; in fact, just take the citation and run with it to the official page.

Second, realize that there may be gaps in the website's coverage of the agency's decisions and opinions. Despite the great number of decisions now appearing on agency sites, the researcher may still only be seeing selected cases. The Tax Tribunal, for example, does not "publish" its small claims decisions, and a paper, website, or even LEXIS or Westlaw search would be fruitless. In such

cases, when you are certain that your citation information is correct, a call to the agency is the only way to go.

Moreover, those of us spoiled by alert flags and other case status information on materials retrieved from Westlaw and LEXIS are likely to forget that the administrative decision in question may have felt the impact of a later judicial action. I am not aware of any agency site that includes appeals information, although there are some print resources, like the Michigan Tax Tribunal Reporter, that include tables showing whether or not a particular decision has been appealed.

If there is no access to a paper index, one alternative is to run a search with the party name and agency docket or case number through the administrative decision and case law (Michigan Court of Appeals and Michigan Supreme Court) databases on one of the electronic services. Some subsequent hearings can be quite detailed about a case's procedural history, including information on

whether the case has been appealed to the courts. A great boon to this type of tracking has been the capacity to search for unpublished Court of Appeals decisions from 1996 forward at [courtofappeals.mjud.net](http://courtofappeals.mjud.net).

If all else fails, attorneys familiar with agency operations recommend making a call directly to the agency, to either someone in the records or legal affairs office for help in determining a decision's ultimate disposition. If the attorney general would represent the agency in the appeal, then checking with that office is another option. Keep in mind, however, restraints on the staffer's time—the justifiable response to a request for a status update on a long list of cases—may result in the staffer's promising no information before the end of the week, or worse, may prompt the dreaded, "You'll have to come in and go through the files" response.

Finally, the researcher needs to be aware that materials setting forth particular agency policy and procedures may be set out in various memoranda, bulletins, and reports considered internal and unavailable to the book or Internet researcher.<sup>2</sup> In such a situation, be prepared to wait for the information or to send in someone to procure what is needed.

In such circumstances, the usual exchange between the researcher and staffer has the staffer insisting that the researcher be more specific (give a citation, a section number, a date) in his request which, ironically, is why the researcher called the agency in the first place. If the required material can be (reasonably) identified and the agency still insists that it cannot be made available to the researcher or if made available only on somewhat restrictive or uncomfortable terms, ask what the agency's FOIA procedure is.<sup>3</sup> Fortunately, Michigan agencies seem to be more forthcoming with information and have more streamlined and efficient FOIA procedures than many local, other state, and even federal agencies.

It may be possible to avoid a FOIA request or sending someone in person if you have a good agency contact, someone willing to listen patiently and respond to questions as you work your way through the administrative maze of materials. If a person has been particularly helpful, hang on to the name and number and keep them in mind as a

guide, even when your request goes a bit beyond his or her own agency's scope. It is also good to provide feedback to that contact person or to the webmaster of an agency site that you use frequently, pointing out where gaps have been in your research, and urging the agency to keep older materials on the site. As space on state servers grows tight, agencies may be tempted to drop materials past a certain date to make room for more data. As information end-users, it is necessary to help and to encourage agencies to continue to develop their products and website content or the decisions will be made without us—if that seems altruistic or distasteful, try explaining (or imagining how you will explain) to your client or patron that the decision or document vital to his case has just disappeared into cyber-limbo.

All this, of course, barely scratches the surface of administrative law and research. For a comprehensive look at the subject and materials available in Michigan, consult Don LeDuc's book, *Administrative Law in Michigan* (West, 2001 rev ed ). For an overview of adjudicatory material available from state departments, boards, commissions, or agencies, go to the Neef (Wayne State University) Law Library Location Guide for Opinions, Decisions, and Orders at [www.lib.wayne.edu/lawlibrary/researchguides/MichiganAdministrativeAgencies.html](http://www.lib.wayne.edu/lawlibrary/researchguides/MichiganAdministrativeAgencies.html). Finally, the excellent Michigan Legislature site, [www.michiganlegislature.org](http://www.michiganlegislature.org), has a link to sections of the Michigan Manual that feature profiles of state departments, as well as a link to the Michigan Administrative Code. ◆

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#### FOOTNOTES

1. The author wishes to thank all the members of the State Bar of Michigan Libraries, Legal Research, and Publications Committee who contributed links and information for this article.
2. For a discussion of one facet of this issue, see David Lebenbom, "Agency Use of Unpromulgated Policies: The Practitioner's View," 74 Mich BJ 280 (1995).
3. For a more complete discussion about FOIA requests, see Don LeDuc, Chapter 11, "Access to Agency Information," in *Michigan Administrative Law* (West 2001 rev ed).