

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR

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Office of the General Counsel to the Mayor

May 18, 2007

BY US MAIL AND E-MAIL

[REDACTED]
Washington, DC 200

Re: Freedom of Information Act Appeal

Dear [REDACTED]

This letter responds to your administrative appeal to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code, 2001 Ed. §§ 2-531 *et seq.* (the "DC-FOIA"), dated April 10, 2007, initially received in this office on April 13, 2007 (the "Appeal"). We accept your Appeal as of that date. We delivered a copy of the Appeal directly to the respondent agency, the District of Columbia Department of Human Resources ("DHR"). DHR delivered its response to us by email, dated May 16, 2007, a copy of which is attached. You are referred to herein as the "Appellant." Appellant's initial DC-FOIA request, dated March 12, 2007 ("FOIA Request") sought the following:

"...All waivers for claims for erroneous employees payments, in writing with justification, issued by the Mayor since January 1, 2002, waiving claims for erroneous payment or debt owed by current or former employees. The information should include name of employee, job title, amount of erroneous payment, amount of waiver, date of waiver and justification of waiver."

DHR partially denied the FOIA Request in a letter dated April 4, 2007 (the "DHR Denial"), by refusing to disclose names of employees and justification for the waivers. DHR relied on D.C. Official Code § 5-534(a)(2)[sic], deeming this information to be of a personal nature such that public disclosure would be an unwarranted invasion of personal privacy.

Appellant argues on appeal that (i) the names, salaries, title and dates of employment of all employees are to be made public and (ii) release of the information would further public interests.

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Discussion

It is the public policy of the District government that "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." D.C. Official Code 2001 Ed. § 2-531. In aid of that public policy, the FOIA creates the right "to inspect ... and ... copy any public record of a public body ..." D.C. Official Code, 2001 Ed. § 2-532(a). Further, the DC FOIA mandates that certain information must be made public when requested. That information includes names, salaries, title, and dates of employment of all employees and officers of a public body. D.C. Official Code, 2001 Ed. § 2-536(a)(1) (emphasis added). It also includes final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases. D.C. Official Code, 2001 Ed. § 2-536(a)(3) (emphasis added).

DHR submitted for our *in camera* review, copies of requests for waivers of overpayments and final decisions made by DHR with respect to those requests. In each instance, a "final decision" was issued by DHR after consideration of the request and investigation as to the merits thereof. And, in each case, DHR gave notice that the final decision constituted a "final administrative decision," not subject to further administrative appeal. It is clear that these decisions constitute final opinions or orders made in the adjudication of cases within the meaning of D.C. Official Code, 2001 Ed. § 2-536(a)(1) and (a)(2). Although certain personal information is disclosed within the bodies of these decisions, those disclosures, namely names of employees and amounts paid by the government, appear to be within the realm of acceptable disclosure mandated by Sections 2-536(a)(1) and (a)(2).

Therefore, DHR's denial is VACATED and REMANDED to DHR with instruction for DHR to provide to Appellant, within ten (10) business days, copies of those particular decisions made by DHR that are responsive to the initial FOIA request, to wit, any decision waiving claims for erroneous payment issued by the Mayor since January 1, 2002. This decision does not require DHR to provide to Appellant any documents outside the scope of the original FOIA request or to create documents not ordinarily maintained by the agency.

As the appellant, you are free under the DC-FOIA to commence a civil action against the District of Columbia government at any time in the District of Columbia Superior Court, without awaiting the outcome of DCPS's response to this ruling.

Sincerely,



Andrew T. "Chip" Richardson, III
Deputy General Counsel, EOM

Cc: Jessica V. Pimentel
FOIA Officer

[Redacted]