

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR

493957

MLC II



Office of the General Counsel to the Mayor

September 25, 2007

BY US MAIL AND E-MAIL

[REDACTED]
Williamsport, PA 177

Re: Freedom of Information Act - Fees

Dear [REDACTED]

This letter addresses the issue of whether fees may be charged for access to documents determined appropriate for disclosure under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-531 *et seq.* (2001 & 2006 Supp.) (the "DC-FOIA"). This letter is limited to the specific facts in this case. A final determination was issued May 29, 2007 with respect to the initial administrative appeal to the Mayor, dated January 19, 2007 (the "Appeal"). Our initial determination of the Appeal was issued February 13, 2007, in which we vacated and remanded a denial of your initial DC-FOIA request by the District of Columbia Water and Sewer Authority ("WASA"). The May 29, 2007 determination directed WASA to disclose certain emails requested in the initial DC-FOIA Request. Subsequently, a dispute arose about the appropriate fees that may be charged by WASA for access to those emails.

The May 29, 2007 determination directed WASA to "provide to [REDACTED] any emails relating to the [REDACTED] report, subject to payment by [REDACTED] of the cost of retrieval of such emails." It appears from the record that Appellant requested that WASA waive any applicable fees associated with the FOIA request in a letter-email dated, June 14, 2007. In that letter, appellant represents that she is "a news media representative." She also represents that she is gathering information on "the most significant instance of lead contamination of drinking water in recent US history," and that the "lead crisis has generated intense local interest and considerable national interest..." A search of the internet web search engine Google confirms the existence of the opinion that there was a "lead crisis" in Washington, D.C. A search returned an article entitled: "Washington, D.C.: Water Lead Crisis" on www.citizen.org/cmep/Water/us/other/dc. It also returned an article dated November 8, 2006 entitled: "D.C.'s water linked to elevated lead levels in kids" on http://pubs.acs.org/subscribe/journals/esthag-w/2006/nov/policy/tr_dcwater.html. (Copies attached.)

September 25, 2007

Page 2

A public body may establish and collect fees not to exceed the actual cost of searching for, reviewing, and making copies of records. D.C. Official Code § 2-532(b) (2001 & 2006 Supp.). Any fee schedule shall provide that fees be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by...a representative of the news media. D.C. Official Code § 2-532(b-1)(2) (2001 & 2006 Supp.). Accordingly, a public body may charge fees for searching, reviewing and copying records, except when those records are sought by a member of the news media for non-commercial purposes. In such instances, the fees charged must be limited to the cost of duplication only.

Based on the current record, WASA may charge fees that represent WASA's actual cost of duplicating. It would be inappropriate under DC-FOIA for WASA to charge fees for searching (retrieving) or reviewing, even if such services are conducted by a third party for WASA's benefit.

Sincerely,



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

Attachments

cc (by e-mail):

Webster Barnes
Principal Counsel and FOIA Officer

