

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:

OLC:LNG:lng
(AF-97-336)

June 16, 1997

Fran Goldstein
Chairperson
Advisory Neighborhood Commission 2-E
3265 S street, N.W.
Washington, D.C. 20007

Re: Freedom of Information Act request of Matthew E. Donahue

Dear Chairperson Goldstein:

This is in reply to your June 9, 1997 request for the assistance of this Office in responding to the June 5, 1995 Freedom of Information Act (FOIA) request sent to Advisory Neighborhood Commission (ANC) 2-E by Matthew E. Donahue.

I am enclosing with this letter a copy of the District's Freedom of Information Act, D.C. Code §§ 1-1521 through 1-1528 (1992), and a copy of Chapter 4 ("Freedom of Information") of Title 1 of the District of Columbia Municipal Regulations ("DCMR"). section 400.1 of Chapter 4 of Title 1 DCMR states:

This chapter contains the rules and procedures to be followed by all agencies, offices, and departments (hereinafter "agency") of the District of Columbia Government which are sUbject to the administrative control of the Mayor in implementing the Freedom of Information Act, D.C. Law 1-96, 23 DCR 3744 (1977).

(Emphasis added.) since ANCs are not sUbject to the administrative control of the Mayor, Chapter 4 of Title 1 DCMR does not apply to ANCs. ANCs, like other government agencies independent of the administrative control of the Mayor, may adopt rules governing the handling of FOIA requests. Such rules may, inter alia, establish "fees not to exceed the actual cost of searching for or making copies of records, but in no instance shall the total fee for searching exceed \$10 for each request. liD.C. Code § 1-1522 (b) (1992). I have enclosed a copy of Chapter 4 of Title 1 DCMR to provide you with some general guidance in the event ANC 2-E decides to adopt rules governing the handling of FOIA requests, including the adoption of appropriate fees for searching and copying of records.

For the most part, the provisions of the District's FOIA are substantially the same as those of the Federal FOIA. Therefore, Federal case law interpreting the Federal FOIA may be applied as a guide to interpretation of the District's FOIA. See Donahue v. Thomas, 618 A.2d 601, 602, n.3 (D.C. 1992).¹ The Department of Justice periodically publishes a guide to interpretation of the Federal FOIA based on Federal court decisions. The latest edition of this guide was published in 1996. I am enclosing some pages from that edition to assist you in determining what you are required to do and what you are not required to do in responding to Mr. Donahue's FOIA request.

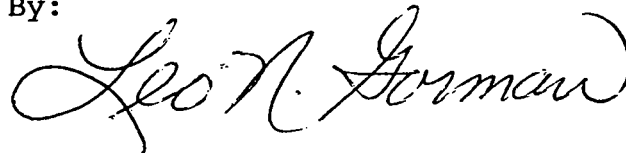
A substantive written response to Mr. Donahue's letter should, if possible, be sent by ANC 2-E to Mr. Donahue within 10 working days after the receipt of his letter by ANC 2-E. See D.C. Code § 1-1522 (1992). Since he has asked to examine all of ANC 2-E's records, ANC 2-E's response letter should propose a plan whereby Mr. Donahue would be granted access to those ANC 2-E records that are not exempt from disclosure under D.C. Code § 1-1524 (1992).

You ask about the disclosure of quarterly financial reports and annual reports which ANC 2-E files with the D.C. Auditor. The fact that the "originals" of such reports are in the possession of another agency, such as the D.C. Auditor, does not relieve ANC 2-E from disclosing copies of such reports in ANC 2-E's possession if disclosure is requested under the FOIA.

After reading the enclosed materials, if you have any specific questions about how ANC 2-E is required to respond to Mr. Donahue's FOIA request, you may contact me by telephone at 727-3400.

sincerely,

Jo Anne Robinson
Interim Corporation Counsel
By:



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

Enclosures

The "Donahue" in this case is the same Matthew E. Donahue who sent the FOIA letter to ANC 2-E. A copy of this case is enclosed.