

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2022-006**

May 11, 2022

VIA ELECTRONIC MAIL

Mr. John Cochran

RE: FOIA Appeal 2022-006

Dear Mr. Cochran:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Official Code § 2-537 (“DC FOIA”). In your appeal, you assert that the Office of the Chief Financial Officer (“OCFO”) improperly denied records you requested under DC FOIA.

Background

On October 9, 2021, you submitted a DC FOIA request to OCFO for “the most recent unclaimed outstanding checks/warrants including the A/R Credits, Payroll, and AP issued by the Agencies/Departments.” On October 12, 2021, OCFO denied your request in full “pursuant to the Revised Uniform Unclaimed Property Emergency Act of 2021 (RUUPA), effective October 1, 2021(DC Act 24-159; 68 DCR 8602), Parts 13 and 14; and DC Code §§ 2-534(a) and (a)(6) [(“Exemption 6”).”¹ You appealed to this Office that same day asserting that “the denial section includes amendments by temporary legislation that will expire on October 27, 2021.” On October 15, 2021, we notified OCFO of your appeal and requested a response.

On October 22, 2021, OCFO responded to your appeal.² In its response, OCFO reiterated its position that the records at issue are exempt from public disclosure under Exemption 6 of DC FOIA. In support of its position, OCFO provided confidentiality provisions of RUUPA. OCFO also noted that RUUPA is “explicitly modeled after the Revised Uniform Unclaimed Act (“Uniform Act”) by the Uniform Law Commission” and the commentary to the Uniform Act states that the confidential information section is intended for confidential information to be protected from disclosure required under freedom of information laws.

Discussion

It is the public policy of the District of Columbia government that “all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who

¹ Exemption 6 exempts from disclosure information that is specifically protected from disclosure by other statutes.

² A copy of the response from OCFO to your appeal is attached.

represent them as public officials and employees.” D.C. Official Code § 2-531. In aid of that policy, the DC FOIA creates the right “to inspect . . . and . . . copy any public record of a public body . . .” *Id.* at § 2-532(a).

The DC FOIA was modeled on the corresponding federal Freedom of Information Act. *Barry v. Washington Post Co.*, 529 A.2d 319, 312 (D.C. 1987). Accordingly, decisions construing the federal statute are instructive and may be examined to construe local law. *Washington Post Co. v. Minority Bus. Opportunity Comm’n*, 560 A.2d 517, 521, n.5 (D.C. 1989).

Exemption 6

Exemption 6 protects from disclosure

Information specifically exempted from disclosure by statute (other than [DC FOIA]), provided that such statute:

- (A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or
- (B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Under RUUPA (DC Act 24-159, effective October 1, 2021) and the permanent Revised Uniform Unclaimed Property Act of 2021 (DC Act 24-176, effective November 13, 2021) which replaced RUUPA prior to its November 21, 2021 expiration, certain information is explicitly deemed confidential and exempt from public inspection or disclosure. Specifically, under Section 7083 of both RUUPA and the permanent act the following are confidential and exempt from public disclosure:

- (1) Records of the Administrator and Administrator’s agent related to the administration of this subtitle;
- (2) Reports and records of a holder in the possession of the Administrator or the Administrator’s agent; and
- (3) Personal information and other information derived or otherwise obtained by or communicated to the Administrator or the Administrator’s agent from an examination under this subtitle of the records of a person.

There was no lapse in protection. We find that OCFO properly withheld the unclaimed checks pursuant to Exemption 6 of DC FOIA.

Conclusion

Based on the foregoing, we affirm the agency’s decision and deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia government in the Superior Court of the District of Columbia in accordance with the DC FOIA.

Respectfully,

Mayor's Office of Legal Counsel

cc: Laverne Lee, FOIA Officer, OCFO (via email)