

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-008**

May 11, 2022

VIA ELECTRONIC MAIL

Mr. Eddie Becker

RE: FOIA Appeal 2022-008

Dear Mr. Becker:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), on grounds that the Office of the Chief Financial Officer (“OCFO”) failed to properly respond to your DC FOIA request.

On September 1, 2021, you submitted a DC FOIA request to OCFO seeking “[t]he last [six] Treasurer Investment Reports” submitted to the Investment Advisory Committee, in accordance with Section S, Records and Reports, of OCFO’s Cash & Investment Management Investment Policy.<sup>1</sup> Further your request sought the following information for each report:

(i) a listing of the existing Portfolio in terms of investment instruments, maturity dates, yields, market values and other features deemed relevant, (ii) the total investment earnings for the reporting period; (iii) a summary of transactions executed during the quarter; and (iv) an affirmative statement of compliance with this Investment Policy and any applicable bond resolutions.

In response, on October 6, 2021, OCFO denied your request in full for the following reasons:

- 1) **Privacy** Pursuant to D.C. Official Code § 2-534, the District government is not required to individual's personally identifiable information or financial information to the general public.
- 2) **Business:** the information is exempt from disclosure, pursuant to D.C. Official Code § 2-534(a)(1) on the basis that it includes commercial, personal financials of a business. The privacy interests of the business at issue, in keeping its personal/business identifying information private, outweighs the benefit of releasing such information without providing an overwhelming public interest

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<sup>1</sup> See

[https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/ocfo\\_cash\\_mgmt\\_investment\\_policy\\_final.pdf](https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/ocfo_cash_mgmt_investment_policy_final.pdf)

beyond the personal value of the information to the requestor.

You appealed asserting that OCFO's denial was "arbitrary and capricious" and that the claimed exemptions are inapplicable to the records requested. On November 2, 2021, this Office notified OCFO of your appeal and requested a response. OCFO responded on November 9, 2021.<sup>2</sup> In its response, OCFO explained that the agency conducted a further review and determined that the requested Treasurer Investment Reports do not exist. Specifically, OCFO clarified that the Treasurer does not prepare these Reports and the Investment Policy describing them is obsolete. However, "OCFO has decided to provide [you] with records responsive to the items to be included in the Reports to the extent they are available." OCFO represented that it provided you with lists of investment holdings for the past six quarters and offered to provide statements of investment earning for those quarters, but indicated that the agency neither has any summaries of transactions executed during the last six quarters nor any statements of compliance for the last six quarters.

Based on OCFO's representations that the agency has provided and will provide you with available records responsive to the items to be included in the Reports, we consider this matter to be moot and dismiss it. However, you are free to challenge OCFO's substantive response by separate 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 in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor's Office of Legal Counsel

cc: William Bowie, Senior Counsel  
Office of Tax and Revenue (via email)

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<sup>2</sup> A copy of OCFO's response to your appeal is attached to this decision.