

DETROIT HOUSING COMMISSION

1301 E. Jefferson
Detroit, Michigan 48207

FOIACoordinator@dhcmi.org

FAX: 313-877-8764

MICHIGAN FREEDOM OF INFORMATION ACT Written Public Summary of Procedures and Guidelines EFFECTIVE JULY 1, 2015

Consistent with the Michigan Freedom of Information Act ("FOIA"), Public Act 442 of 1976, MCL 15.231, et seq., the following is the Written Public Summary of the Detroit Housing Commission's ("DHC") Freedom of Information Act ("FOIA") Procedures and Guidelines relevant to the general public.

This is only a summary of DHC's FOIA Procedures and Guidelines. For more details and information, copies of DHC's FOIA Procedures and Guidelines are available at no charge at DHC's main office at 1301 E. Jefferson, Detroit, Michigan 48207, and on DHC's website: www.dhcmi.org.

DHC's FOIA Coordinator is DHC's General Counsel, Hurticene Hardaway. Send FOIA requests and FOIA related inquiries and correspondence to:

Hurticene Hardaway, FOIA Coordinator
1301 E. Jefferson
Detroit, Michigan 48207
FAX: (313) 877-8764
eMail: FOIACoordinator@dhcmi.org

1. How to submit a FOIA request to DHC.

- A request must sufficiently describe a public record so as to enable DHC to find it.
- Include the words "FOIA" or "FOIA Request" in the request to assist DHC in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by DHC may be submitted on DHC's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by DHC on DHC's FOIA Request Form.
 - No specific form to submit a written request is required. However, a FOIA Request Form and other FOIA-related forms are available for your use and convenience on DHC's website at www.dhcmi.org and at DHC's main office at 1301 E. Jefferson, Detroit, Michigan 48207.

- Written requests may be delivered to DHC in person or by mail:
Hurticene Hardaway, FOIA Coordinator
1301 E. Jefferson
Detroit, Michigan 48207
- Requests may be faxed to DHC's FOIA Coordinator at: (313)877-8764. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be emailed to DHC's FOIA Coordinator at:FOIACoordinator@dhcmi.org. To ensure a prompt response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

2. What kind of response can be expected to a request.

- Within 5 business days after receiving a FOIA request the FOIA Coordinator will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. The FOIA Coordinator will respond to a request in one of the following ways:
 - Grant the request,
 - Issue a written notice denying the request,
 - Grant the request in part and issue a written notice denying the request in part,
 - Issue a notice indicating that due to the nature of the request DHC needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on DHC's website.
- If the request is granted, or granted in part, the FOIA Coordinator will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed \$50, or if the requestor has not paid for a previously granted request, the FOIA Coordinator will require a deposit before processing the request.

3. What are DHC's deposit requirements?

- If DHC has made a good faith calculation that the total fee for processing the request will exceed \$50.00, the FOIA Coordinator will require that the requestor provide a deposit in the amount of 50% of the total estimated fee. When the FOIA Coordinator requests the deposit, s/he will provide a non-binding best efforts estimate of how long it will take to process the request after the deposit has been paid.
- If DHC receives a request from a person who has not paid DHC for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee

before a search for the public record begins for any subsequent written request when **all** of the following conditions exist:

- The final fee for the prior written request was not more than 105% of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remain in DHC's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by DHC to provide the records;
 - Ninety (90) days have passed since DHC notified the individual in writing that the public records were available for pickup or mailing;
 - The individual is unable to show proof of prior payment to DHC; and
 - DHC has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- DHC will not require the 100% estimated fee deposit if any of the following apply:
 - The person making the request is able to show proof of prior payment in full to DHC;
 - DHC is subsequently paid in full for all applicable prior written requests;
 - Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to DHC; or
 - The final fee for the prior written request was not more than 105% of the estimated fee.

4. How does DHC calculate FOIA fees?

FOIA permits DHC to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to DHC.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to DHC.
- The cost of copying or duplicating, not including labor, of paper copies of public records. This may include the cost for copies of records already on DHC's website if the requestor asks DHC to make copies.
- The cost of computer discs, computer tapes or other digital or similar media when the requestor asks for records in non-paper physical media.

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- The cost to mail or send a public record to a requestor.

Labor Costs

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid DHC employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- DHC may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
- Contracted labor costs will be charged at an hourly rate up to \$48.90 (6 times the state minimum hourly wage).

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to DHC. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to DHC's usual FOIA requests, because of the nature of the request in the particular instance. DHC must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

DHC must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if DHC has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets will reflect the actual cost of reproduction.

Mailing Costs

- The cost to mail public records will use a reasonably economical and justified means.
- DHC may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless approved by the requestor.

Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public.

Current Charges for Paper and Other Media

Paper Copies	
8 1/2x11	10¢ per sheet
8 1/2x14	10¢ per sheet
8 1/2x17	10¢ per sheet
Other Paper Sizes	Varies depending on actual cost of the paper
Compact Disc or DVD	\$1.00 each
Photographs, videotapes, maps, plans, blueprints, microfilm and other media	Actual cost of duplication/publication incurred by DHC, including postage
Other media provided by DHC	Varies depending on actual cost of the media

5. How to qualify for an indigence discount on the fee.

DHC will discount the first \$20.00 of fees for a request if an affidavit is submitted stating that the requestor is:

- Indigent and receiving specific public assistance; or

- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

A requestor is **not** eligible to receive the \$20.00 discount if the requestor:

- Has previously received discounted copies of public records from DHC twice during the calendar year; or
- Is requesting information on behalf of other persons who are offering or providing payment to the requestor to make the request.

An affidavit is a sworn statement. For your convenience, DHC has provided an Affidavit of Indigence for the Waiver of FOIA Fees on the back of the DHC FOIA Request Form, which is available on DHC's website: www.dhcmi.org.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the State to carry out activities under Subtitle C of the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, may receive a \$20.00 discount if the request meets all of the following requirements in FOIA:

- Is made directly on behalf of the organization or its clients.
- Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
- Is accompanied by documentation of its designation by the State, if requested by DHC.

7. How may the denial of a public record or an excessive fee be challenged?

Appeal of a Denial of a Public Record

If a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, the requestor may appeal to DHC's Executive Director by filing a written appeal of the denial with the FOIA Coordinator. If the appeal is not filed within 45 days of issuance of the FOIA Coordinator's denial of the request, the determination of the FOIA Coordinator will be DHC's final determination to deny the request.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons the requestor is seeking a reversal of the denial. The requestor may

use DHC's Appeal of a FOIA Denial of Records Form, which is available on DHC's website: www.dhcmi.org.

Within 10 business days of receiving the appeal DHC's Executive Director will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reversing the disclosure denial in part and upholding the disclosure denial in part.

Whether or not the requestor submitted an appeal of a denial to DHC's Executive Director, the requestor may file a civil action in Wayne County Circuit Court within 180 days after DHC's final determination to deny a request. If the requestor prevails in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the person or DHC prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the court determines that DHC has arbitrarily and capriciously violated FOIA by refusal or delay in disclosing or providing copies of a public record, the court shall order DHC to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record.

Appeal of an Excessive FOIA Fee

If the requestor believes that the fee charged by DHC to process a FOIA request exceeds the amount permitted by FOIA, the requestor must first appeal to DHC's Executive Director by filing a written appeal for a fee reduction with the FOIA Coordinator within 45 days of issuance of the FOIA Coordinator's denial of the request.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The requestor may use DHC's Appeal of Excess FOIA Fee Form which is available at DHC's main office at 1301 E. Jefferson, Detroit, Michigan 48207 and on DHC's website: www.dhcmi.org.

Within 10 business days after receiving the appeal, DHC's Executive Director will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing a written determination indicating the specific basis that supports the required fee; or

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- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which DHC's Executive Director will respond to the written appeal.

Within 45 days after receiving notice of DHC Executive Director's determination of the processing fee appeal, the requestor may commence a civil action in Wayne County Circuit Court for a fee reduction. If the requestor prevails in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that DHC acted arbitrarily and capriciously by charging an excessive fee, the court may also award the requestor punitive damages in the amount of \$500.