

FOIA Appeal: Title VIII File

Legal Opinion: GMP-0068

Index: 7.370, 7.413
Subject: FOIA Appeal: Title VIII File

April 1, 1992

Georg and Dorothy Gilseth
3244 66th Avenue S.W., #23
Olympia, Washington 98502

Dear Mr. and Mrs. Gilseth:

This is in response to your Freedom of Information Act (FOIA) appeal dated May 24, 1991 requesting HUD's case file on Williams v. Laurel Park Estates, HUD Case No. 10-90-0216-1. On April 24, 1991 you requested the case file in the Williams case and in Kemp v. Laurel Park Estates, HUD Case No. 10-90-0215-1, compiled under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601. Richard L. Bauer, Regional Administrator, Seattle Regional Office, in a letter to you dated May 10, 1991, released information gathered as a result of the investigation of the complaint in Kemp v. Laurel Park Estates. However, Mr. Bauer denied your request for the case file in Williams v. Laurel Park Estates under Exemption 7(A),(B),(C) of the FOIA, 5 U.S.C. 552(b)(7)(A),(B),(C).

I have determined to affirm the initial denial.

Exemption 7(A) of the FOIA protects from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings

The Department is conducting an investigation (Gilseth v. Bockhorst, HUD Case No. 10-91-0088-1), into a complaint brought in connection with the Williams case. The materials that you have requested are part of an ongoing investigation conducted under Title VIII by the Department in connection with possible violations of law. Premature disclosure of these documents which contain evidence not otherwise publicly available would interfere with the Department's investigation and subsequent conciliation or enforcement activities. Therefore, release of the information at this time would interfere with ongoing enforcement proceedings. Therefore, I have determined to affirm the withholding of this information under Exemption 7(A). See Center for National Policy Review on Race and Urban Issues v. Weinberger, 502 F.2d 370 (D.C. Cir. 1974).

In addition, the Privacy Act of 1974, at 5 U.S.C. 552a(k)(2), exempts certain investigatory records from mandatory disclosure. The records you have requested are contained in a

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system of records which is exempt under subsection (k)(2). See Privacy Act Issuances, 1989 Compilation, HUD/Dept.-15, Equal Opportunity Housing Complaints.

You have the right to judicial review of this determination under 5 U.S.C. 552(a)(4).

Very sincerely yours,

C.H. Albright, Jr.
Principal Deputy General Counsel

cc: Yvette Magruder
John Vandermolen, Regional Counsel