

Legal Opinion: GMP-0139

Index: 7.350, 7.413
Subject: FOIA Appeal: Title VIII--Segregable Facts

January 15, 1993

Mr. Olivier Jeunehomme
1626 N. Wilcox Avenue, #725
Los Angeles, California 90028

Dear Mr. Jeunehomme:

This is in response to your Freedom of Information Act (FOIA) appeal dated September 29, 1992. You appeal the September 3, 1992 partial denial by Joan H. Hall, Freedom of Information Liaison Officer, San Francisco Regional Office. Ms. Hall withheld an intra-office memorandum under Exemption 5 of the FOIA and a Title VIII Complaint Intake Checklist under Exemption 2 of the FOIA. You challenge only the denial of the intra-office memorandum withheld under Exemption 5.

I have determined to affirm, in part, and reverse, in part, the initial denial.

The memorandum, dated September 25, 1990, from Samuel Drake, Equal Opportunity Specialist, to LaVera Gillespie, Director, Regional Office of Fair Housing and Equal Opportunity, concerns a review of Jeunehomme vs. Appel/Turk, HUD Case No.: 09-90-1502-1, a case brought under Title VIII of the Civil Rights Act of 1968. The first five paragraphs of the memorandum provide a factual review of the history of the case, which I have determined are segregable facts which can be released to you. See, EPA v. Mink, 410 U.S. 73, 87-88 (1973), Exemption 5 does not apply to segregable factual portions of deliberative documents. I am releasing this information to you.

The rest of the memorandum, consisting of the last two paragraphs and part of the subject heading, was properly withheld from you pursuant to Exemption 5 of the FOIA, 5 U.S.C. Section 552(b)(5). This provision pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. This material is not appropriate for discretionary release.

You are entitled to judicial review of my determination under 5 U.S.C. Section 552(a)(4). Judicial review of my action on this appeal is available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, or in the judicial district where the records you seek are located.

Very sincerely yours,

George L. Weidenfeller

Deputy General Counsel (Operations)

Enclosure

cc: Yvette Magruder
Beverly Agee, 9G