

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VERN McKINLEY,)
20745 Ashburn Station Place)
Ashburn, Virginia 20147,)

Plaintiff,)

v.)

FEDERAL HOUSING)
FINANCE AUTHORITY)
1700 G Street, N.W)
Washington, DC 20552,)

Defendant.)

Civil Action No.

Case: 1:10-cv-01165
Assigned To : Kennedy, Henry H.
Assign. Date : 7/12/2010
Description: FOIA/Privacy Act

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Vern McKinley (“McKinley”) brings this action against Defendant Federal Housing Finance Authority (“FHFA”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Vern McKinley is a private citizen residing in Ashburn, Virginia. For the past 25 years, McKinley has worked in supervision of financial institutions, central banking and deposit insurance, including as an employee of the Office of Thrift Supervision which is within the U.S. Department of the Treasury. He currently works as an advisor to governments

worldwide on financial sector policy and legal issues. McKinley also is the author of several professional articles on banking and financial issues published by the Cato Institute, including a critique in 1997 of the then-existing structure of Fannie Mae and Freddie Mac.

4. Defendant Federal Housing Finance Authority is an agency of the United States Government and is headquartered at 1700 G Street, N.W., Washington, DC 20552. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On May 23, 2010, McKinley sent a FOIA request to FHFA seeking records related to FHFA's decision to place the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") in conservatorship.

Specifically, McKinley sought:

[A]ny and all communications and records concerning or relating to the assessment of an adverse impact on systemic risk in addressing Fannie Mae and Freddie Mac, and in particular how the FHFA and the Department of the Treasury determined that conservatorship was the preferred option to avoid any systemic risk of placing Fannie Mae and Freddie Mac into receivership.

6. On May 26, 2010, FHFA acknowledged receipt of McKinley's FOIA request on May 24, 2010 and assigned it FOIA number 2010-71.

7. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), FHFA was required to respond to McKinley's FOIA request within twenty (20) working days of receipt, or by June 22, 2010.

8. On June 20, 2010, FHFA requested that McKinley clarify his FOIA request. Specifically, FHFA asked McKinley to provide FHFA with the time period covered by his FOIA request.

9. On June 23, 2010, McKinley informed FHFA that the time period covered by his FOIA request was July 1, 2008 to September 30, 2008.

10. Pursuant to 5 U.S.C. § 552(a)(6)(A), the statutorily allotted time for FHFA to respond to McKinley's FOIA request was tolled from June 20, 2010 to June 23, 2010, while FHFA awaited McKinley's response to FHFA's request for clarification.

11. Because the time period was tolled for three days, FHFA was required to respond to McKinley's FOIA request by June 28, 2010.

12. As of the date of this Complaint, FHFA has failed to produce any records responsive to McKinley's FOIA request or demonstrate that responsive records are exempt from production. Nor has FHFA indicated whether or when any responsive records will be produced.

13. Because FHFA failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i) or extend that time limit pursuant to 5 U.S.C. § 552(a)(6)(B)(i), McKinley is deemed to have exhausted any and all administrative remedies with respect to his FOIA request. 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA)

14. Plaintiff realleges paragraphs 1 through 13 as if fully stated herein.

15. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's FOIA request within the time limit required by 5 U.S.C. § 552(a)(6)(A)(i).

16. Plaintiff is being irreparably harmed by reason of Defendant's violations of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

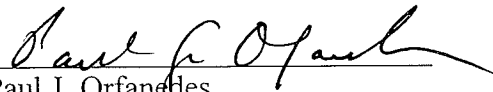
WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (2)

enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (3) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (4) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 12, 2010

Respectfully submitted,

JUDICIAL WATCH, INC.



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