

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	Civil Action No.
<i>Plaintiff,</i>)	
v.)	
)	
U.S. DEPARTMENT OF VETERANS’)	
AFFAIRS)	
810 Vermont Avenue NW)	
Washington, DC 20420,)	
)	
<i>Defendant.</i>)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Veterans’ Affairs 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 Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant U.S. Department of Veterans' Affairs is an agency of the United States Government headquartered at 810 Vermont Avenue NW, Washington, DC 20420. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On April 14, 2017, Plaintiff submitted a FOIA request to the U.S. Department of Veterans' Affairs Greater Los Angeles Healthcare System, a component of Defendant, seeking access to the following records:

1. Any and all lease, land-sharing, enhanced-use, or other land use agreements currently in effect for the West Los Angeles/Greater Los Angeles Campus ("GLA Campus"), including but not limited to agreements with the Regents of the University of California, the Brentwood School, the Veterans Park Conservancy, and the City of Los Angeles.
2. Any and all records concerning or relating to the review of all lease, land-sharing, enhanced-use, or other land use agreements at the GLA Campus, as referenced in Appendix H of the GLA Campus Draft Master Plan, issued January 28, 2016.
3. Any and all notifications of the Secretary's intent to enter into or renew any lease, land-sharing, enhanced-use, or other land use agreement for the GLA Campus, as required by Section 2(j)(1) of the West Los Angeles Leasing Act of 2016, 114 Pub. Law 226:
 - (i) The Committee on Veterans' Affairs of the U.S. Senate;
 - (ii) The Committee on Veterans' Affairs of the U.S. House of Representatives;
 - (iii) The Committee on Appropriations of the U.S. Senate;
 - (iv) The Committee on Appropriations of the U.S. House of Representatives;
 - (v) U.S. Senator Diane Feinstein;

- (vi) U.S. Senator Kamala Harris; and
- (vii) U.S. Representative Ted Lieu.

6. By letter dated April 28, 2017, Defendant acknowledged receipt of Plaintiff's request on April 14, 2017, and advised Plaintiff that the request had been assigned FOIA Request No. 17-07820-F.

7. By letter dated May 10, 2017, Defendant advised Plaintiff that it was "extending the processing time of your April 14, 2017 request." The letter did not state whether Defendant was invoking the 10-day extension of time allowed by law and did not provide a "date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B)(i).

8. As of the date of this Complaint, Defendant has failed to: (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
Violation of FOIA, 5 U.S.C. § 552

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to determine whether to comply with Plaintiff's request within the applicable time limit provisions of 5 U.S.C. § 552(a)(6). At a minimum, Defendant was required to: (i) gather and review the requested documents; (ii) determine and communicate to Plaintiff the scope of any

responsive records Defendant intended to produce or withhold and the reasons for any withholdings; and (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 188-89 (D.C. Cir. 2013). Even allowing for a 10-day extension, Defendant was required to issue its determination on or about May 26, 2017.

12. Because Defendant failed to determine whether to comply with Plaintiff's request within the time period required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a Vaughn index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 6, 2017

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

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