

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
OFFICE OF OPEN GOVERNMENT



February 16, 2018

VIA ELECTRONIC MAIL

C [REDACTED] Barber
[REDACTED]
[REDACTED] com

RE: # OOG-0002_2.6.18 Resolution of Complaint_COST

Dear Ms. Barber:

The Office of Open Government (OOG), pursuant to the authority set forth in section 503(a)(2) of the District of Columbia Administrative Procedure Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-593(a)(2)), and 3 DCMR § 10400 *et seq.*, has reviewed your complaint, assigned file number OOG_0002_2.6.18, in which you raise the Freedom of Information Act (FOIA) and Open Meetings Act (OMA) issues addressed below. As stated herein, the OOG lacks the legal authority or jurisdiction to take the actions you request. Therefore, the OOG is dismissing your complaint pursuant to 3 DCMR § 10402.2.¹

Unreasonable Fee to Obtain Records Pursuant to FOIA and Denial of FOIA Fee Waiver.

The enforcement authority of the OOG extends only to violations committed by District of Columbia public bodies under the OMA. D.C. Official Code § 2-537 confers exclusive jurisdiction over local FOIA disputes to the Office of the Mayor or the D.C. Superior Court. Therefore, challenges to the reasonableness of FOIA fees and the denial of the FOIA fee waiver request are issues that the OOG has no authority to decide, and must be brought before the Mayor or the D.C. Superior Court for a ruling.

Nullification of the COST's July 13, 2016, Public Meeting.

You also request that the OOG “nullify” the July 13, 2016, COST public meeting pursuant to D.C. Official Code § 2-579(d). Your reliance on this provision is in error. D.C. Official Code § 2-579(d)² grants the power solely to the D.C. Superior Court to “void” the action of a public

¹ 3 DCMR § 10402.2 states, “[T]he Director will return the dismissed complaint to the requestor with an explanation of the reason(s) for the dismissal.”

² The OOG “may” bring suit to enforce D.C. Official Code § 2-579. (D.C. Official Code § 2-593(b)).

body where “the court finds that the balance of equities compels the action or the court finds that the violation was not harmless.”

Revisit and Vacate # OOG-0002 2.6.18 Resolution of Complaint.

The OMA and its regulations do not authorize the OOG to revisit or vacate the findings and conclusions of an advisory opinion or resolution of complaint. Since there is no legal authority under the OMA to take the requested action, the OOG’s January 12, 2018, Resolution of #OOG-0013_11.14.17, is binding and must stand.³

Sanction OAH Employees.

Your final request is for the OOG to sanction certain OAH employees. The OOG does not have the legal authority to sanction or otherwise take disciplinary actions against employees of a District agency or public body for violations of the OMA or FOIA.

Sincerely,



TRACI L. HUGHES, ESQ.
Director, Office of Open Government
Board of Ethics and Government Accountability

Enclosure: Copy of OOG_0002_2.6.18

CC: Ronald Ross, Mayor’s Office of Legal Counsel
ronald.ross@dc.gov

³ 3 DCMR § 10406.1, provides that the OOG’s advisory opinion is binding.