

Legal Opinion: GMP-0125

Index: 7.330
Subject: FOIA Appeal: Section 103 -- HOPE Application

October 26, 1992

Frank L. Armour
General Counsel
Housing Authority of City of Newark
57 Sussex Avenue
Newark, New Jersey 07103-3992

Dear Mr. Armour:

This is in response to your Freedom of Information Act (FOIA) appeal dated July 23, 1992. You appeal the June 23, 1992 denial by Burton Bloomberg, the Acting Manager of the Newark Office, of your request for information regarding the application of the New Communities Corporation to acquire certain buildings in the Hayes Homes public housing project under the provisions of the Home Ownership and Opportunity for People Everywhere program (HOPE), authorized by Title IV of the National Affordable Housing Act of 1990. Mr. Bloomberg withheld the application pursuant to Section 103 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. Section 3537a, as a withholding statute meeting the requirements of Exemption 3 of the FOIA, 5 U.S.C. Section 552 (b)(3). The document requested consists of a grant application package required by the Notice of Funding Availability (NOFA) which appeared in 57 Fed. Reg. 1537 (January 14, 1992).

I have determined that the withholding of the application of the New Communities Corporation under Exemption 3 during the selection process was legally correct. This provision pertains to material exempted from release by statute, in this instance, 42 U.S.C. Section 3537(a), which proscribes the disclosure of information during the selection process for the award of assistance from the Department. With the termination of the selection process on September 30, 1992, the information is now available for disclosure under Section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. U.S.C. Section 3545(a)(4), in accordance with the Department's FOIA procedures. You should direct your request to the Newark Office.

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)

cc: Yvette Magruder
John Deller, 2G