

Butler Metropolitan Housing Authority

Public Records Policy

CFR Reference Number: Public Records Act, R.C. 149.43, 149.011

Approved by: Board of Commissioners on 11/29/07 per Resolution #2020

Effective Date: 12/1/07

I. Purpose:

The Butler Metropolitan Housing Authority (BMHA) acknowledges that it maintains many records that are used in the administration and operation of the Housing Authority. In accordance with state law, the Housing Authority has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records: These schedules identify records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the BMHA and document the organization, functions, policies, decisions, procedures, operations, or other activities of the Housing Authority. (R.C. 149.011(G); R.C. 149.43(A)(1)). The records maintained by the BMHA and the ability to access them are a means to provide trust between the public and the Housing Authority.

II. Scope:

- A. BMHA has a designated employee, the Personnel & Budget Assistant, who serves as the custodian of all records maintained by the office, department or function and has a copy of the BMHA's Public Records policy (R.C. 149:43(E)(2)).
- B. The BMHA's Public Record policy, as well as, the Records Retention and Disposition (RC-2) (SOP1-25) are made available to the public upon request.
- C. The BMHA public records policy is addressed in the BMHA Personnel Policy Manual.
- D. The BMHA displays a poster which generally describes the Public Records policy in the lobby.

III. Fees:

- A. The BMHA, in accordance with Section 149.43 of the Revised Code, has established the following fees for providing copies or reproductions of public records maintained by the BMHA:
1. For photocopies of either letter or legal size documents, the fees shall be \$.06 per photocopy calculated from the first photocopy. Advance payment is required before any copies are prepared. The charge for a certified copy of a public record is \$1.00 per page.
 2. For video tapes, cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction (copying) cost. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy.
 3. Established costs/fees under this policy shall be clearly posted and visible to the public.
 4. The Freedom of Information Act waiver provision, 5 U.S.C. Section 552(a)(4)(A)(iii), directs agencies to furnish documents free or at a reduced charge if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. If an individual/group requests a "waiver" of the copy fees that individual/group must complete a Waiver form (Attachment C). This form will then be submitted to the Public Records Custodian, (Personnel & Budget Assistant) for approval. If approved, the Housing Authority will waive the cost of copies.

IV. Availability

1. Inspection

- A. All public records maintained by the BMHA shall be promptly prepared and made available for inspection to any person during regular business hours as well as a copy of the BMHA's current records retention schedule(s) (See SOP 1-25). (R.C. 149.43(B)(1)). (Promptness is to be determined by the facts and circumstances of each public records request). Regular business hours for the BMHA are Monday through Friday (except holidays), from 9:00 am to 12:00 pm and 1:00 pm to 4:00 pm.
- B. For the purpose of enhancing the ability of the BMHA to identify, provide for prompt inspection as well as, provide copies of the requested items in a reasonable period of time, the BMHA shall provide to the requester "Request for Public Records" form for the requester to complete (Attachment A).
1. Prompt inspection and copies of records within a reasonable amount of

time contemplates the opportunity for legal review.

2. Although the BMHA may ask the requestor to make the request in writing, for the requestor's identity, and may inquire about the intended use of the information requested, the requester shall be advised that:
 - a. The requests are not mandatory; and
 - b. The requestor's refusal to complete "Request for Public Records" form does not impair the requestor's right to inspect and/or receive copies of the public record. (R.C. 149.43(B)(5)).
3. Any person, including corporations, individuals, and even governmental agencies, may request public records, and will be allowed prompt inspection of public records and copies within a reasonable amount of time upon request.

C. In the event a request is made to inspect and/or obtain a copy of a record maintained by the BMHA whose release may be prohibited or exempted by either state or federal law, the request shall be forwarded to legal counsel for the BMHA for research and/or review. The person submitting the request shall be advised that their request is being reviewed by legal counsel to ensure that protected and/or exempted information is not improperly released by the BMHA.

D. Records, whose release is prohibited or exempted by either state or federal law, or not considered public records as defined by R.C. 149.43(A)(1), shall NOT be subject to public inspection (See Attachment B). The following represents a partial list of records maintained by the BMHA, that may not be inspected or copied:

1. Client files (with the exception of the client requesting their own file).
2. Health information
3. Infrastructure record (the configuration of a public office's critical systems).
4. Law enforcement investigations
5. Records containing information that was specifically compiled in reasonable anticipation of civil or criminal action or proceeding.
6. Security record (Information that was used for protecting or maintain the security of a public office against attack, interference, or sabotage.)
7. Social Security numbers

2. Public Records Requests

A. Mailed Requests for Public Records:

1. Upon receiving a written request for copies of a public record made in accordance with section 149.43 of the Ohio Revised Code via the United States Postal Service, the BMHA shall promptly respond to the request.
2. An authorized employee of the BMHA shall, by any means practical, contact the requestor and advise them that advance payment is required prior to providing copies of public records, and in addition, the fee shall also include the cost of postage and the envelope. (R.C. 149.43(B)(7)).
3. When practical, the BMHA may forward copied records by any other means reasonably acceptable to the requestor.
 - a. If a person requests a copy of a public record, the BMHA shall permit the requestor to choose to have the public record duplicated on paper or upon the same medium upon which the BMHA maintains the public record or upon any other medium on which the record can reasonably be duplicated as an integral part of the normal operations of the BMHA, or the responsible BMHA employee for the public record.
 - b. Persons seeking copies of public records are not permitted to make their own copies of the requested records by any means. (R.C. 149.43(B)(6)).
4. In accordance with section 149.43(B)(7) of the Ohio Revised Code, the BMHA limits the number of requested public records, to be transmitted through the U. S. Mail, to a maximum of ten records per month, unless the requestor certifies that the records or information in them will not be used for commercial purposes.
 - a. "Commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.
5. Authorized BMHA employees shall comply with the following procedures upon receiving a valid public record request through the United States Postal System:
 - a. BMHA employees shall promptly process requests.

- b. Requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail.
- B. Written or verbal requests for copies made by the public records requester or their designee shall be processed in the same manner as mailed requests.

3. Response and Denials

- A. Requests for inspection and/or copies of public records, which are not maintained by the BMHA shall be processed in the following manner:
 - 1. If the BMHA receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requestor shall be so notified in writing utilizing (Attachment B), that one of the following applies:
 - a. Their request involves records that have never been maintained by the BMHA;
 - b. Their request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable SOP 1-25 Record Retention and Disposition (RC-2);
 - c. Their request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1) (See SOP 1-25;
 - d. If the record that is requested is not a record used or maintained by the BMHA, the requestor shall be notified that in accordance with Ohio Revised Code Section 149.40, that the BMHA is under no obligation to create records to meet public record requests.

B. Ambiguous or Overly Broad Request for Public Records

If a requestor makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the Public Records Custodian cannot reasonably identify what public records are being requested:

- 1. The BMHA may deny the request.
- 2. However, the BMHA shall provide the requester with an opportunity to revise the request by informing the requestor of the manner in which records are maintained by the BMHA in the ordinary course of business.

(R.C. 149.43(13)(2)).

C. Denial of a Record Maintained by the BMHA

The BMHA may deny request for a record maintained by the Housing Authority if:

1. The record that is requested is prohibited from release due to applicable state or federal law.
 - a. Employees of the BMHA shall consult legal counsel if they are unsure of whether the record requested should be withheld from disclosure.
 - i. Employees may check the appropriate box on Attachment A if they are simply applying the statutory exclusion.
 - ii. Otherwise, legal counsel will respond with the legal authority for a denial.

D. Redacting Exempted Records/Procedure

1. "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Ohio Revised Code. (R.C. 149.43 (A)(11));
 - a. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction. (R.C. 149.43(B)(1)).
 - b. If a request is ultimately denied, in part or in whole, the BMHA shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. (R.C. 149.43 (B)(3)).
2. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the BMHA shall make available of the information within the public record that is not exempt.
3. When making that public record available for public inspection or copying that public record, the BMHA shall notify the requester of any redaction or make the redaction plainly visible. (R.C. 149.43(B)(1)).
4. The releasing employee shall then reproduce a copy of the page with the redactions; the resulting copy shall be the page that is released to the requester.

4. Remedy

A. Grievances

1. If a person allegedly is aggrieved due to the inability to inspect a public record or due to the inability to receive a copy of the public record, the person shall be advised that they may:
 - a. Contact the Executive Director.
 - b. If the person is not satisfied after contacting the Executive Director, they shall be advised that Ohio Revised Code section 149.43 provides a legal means for addressing their complaint in these disputes. (R.C. 149.43(C)(1)(2)).

V. Training and Education

The BMHA continues to update and address all education, training, disclosure, and policy requirements mandated by R.C. 109.43 and R.C. 149.43(E)(1)(2).

PLEASE RETURN TO RECORD CUSTODIAN AT bmha@butlernetro.org

REQUEST FOR PUBLIC RECORDS

Attachment A

_____ Date

_____ Name of Requesting Party (Optional)

_____ Street Address

_____ City State Zip Code

Information Requested:

Information is to be _____ mailed. (Stamped self-addressed envelope provided)
_____ picked up personally.

_____ Signature of Requesting Party (Optional)

CHARGES:

_____ pages at \$ _____ = \$ _____

_____ pages at \$ _____ = \$ _____

Other _____ = \$ _____

Total charge: \$ _____

(Forward payment and copy of receipt to Accounting Department)

Payment received by: _____
BMHA employee

_____ Date

PUBLIC RECORDS ARE UNAVAILABLE

Attachment B

The Public Records you requested are not available;

- The request involves records that have never been maintained by the BMHA

- The request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable BMHA Schedules of Record Retention and Disposition (RC-2).

- The request involves a record that has been disposed of pursuant to an Application of the One-Time Record Disposal (RC-1)

- The request involves a record that does not exist and that in accordance with ORC Section 149.40, and that the BMHA is under no obligation to create records to meet public records requests.

- The record that is requested is prohibited from release due to applicable state or federal law.

BMHA Personnel & Budget Assistant
(Public Records Custodian)

Date

FOR WAIVER OF PUBLIC RECORD FEES
Attachment C

Documents requested:

Reason for request of Waiver of record fees:

Print Name: _____ Date: _____

Signature: _____ Phone number: _____

APPROVED: _____

DENIED: _____ REASONS: _____

Housing Authority Public Records Officer: Signature: _____

Date: _____