



PUBLIC RECORDS ACCESS POLICY
Adopted by Board of Commissioners on 6/20/2017

Background:

On June 6, 2016 the Governor approved Chapter 121 of the Acts of 2016 (An Act to Improve Public Records). The portions of the law applicable to public records practices became effective on 01/01/2017. The Massachusetts Public Records Law, which is a combination of statutes and regulations, applies to records created by or in the custody of a state or local agency, board or other government entity. According to Chapter 121, all government entities must adopt and post the guidelines for accessing their public records by July 1, 2017.

General

It is the policy of the Springfield Housing Authority (SHA) to provide the public with access to the SHA Public Records in accordance with the provisions of the Massachusetts Public Records Law. The Springfield Housing Authority (a Custodian) considers that every record that is made or received by the agency or its employees is presumed to be a public record unless a specific statutory exemption permits or requires it to be withheld in whole or in part. Records may be in the form of books, photographs, recorded tapes, financial statements or any other type of printed or electronic data.

Requests made by a tenant/ Section 8 participant/ applicant or SHA employee to review his/her file as well as requests for SHA forms are not considered a request for public record.

The SHA Records Access Policy and contact information of the Records Access Officers will be posted on the SHA web-site and are available upon request at each District management, Rental Assistance, Applications and Executive Office.

Public Records Exemption

The Springfield Housing Authority may use the following exemption as a basis for withholding requested materials completely or in part:

- CORI records (e.g., 803 CMR 2.23; 803 CMR 5.14);
- Domestic Violence Reports (G.L. c. 41, §97D);
- Student Records (e.g., 603 CMR 23.07);

- MCAD documents (aside from the initial complaint and investigative determination) (804 CMR 1.04);
- Personal data held by the Springfield Housing Authority (760 CMR 8) including any personnel, tenants, programs participants, and applicants information, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- Investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;
- Inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; apart from completed factual studies or reports on which the development of such policy positions has been or may be based;
- Records relative to infrastructure, the disclosure of which is reasonably believed to jeopardize public safety;
- Records, the disclosure of which is believed to jeopardize cyber security;
- Notebooks and other materials prepared by a SHA employee which are personal to him/her and not maintained as part of the SHA files;
- Any other records that are subject to attorney-client privilege and the work product privilege;
- Names and addresses of those owning, possessing, or licensed to own or possess firearms or ammunition

If the Springfield Housing Authority claims an exemption and withholds a record, it is responsible for showing how the exemption applies to the record and why it should be withheld.

Records Access Officer

The Springfield Housing Authority designated the Executive Department Manager to be its primary Records Access Officer (RAO) and the Administrative Assistance and Purchasing Manager to be a secondary Records Access Officer in case the primary contact person is absent. The RAO is responsible for:

- reviewing requests for public records;
- coordinating a response to requests for public records;
- responding to requests for public records on a timely manner;
- assisting individuals seeking public records in identifying the records requested;
- keeping and maintaining information of all requests for public records;

- reporting electronically to the Secretary of State with respect to written requests and response to these requests for each calendar year (including the nature of each request, the date it was received, the date when a response was provided, the number of hours required to fulfill the request, fee charged to the requested if any);
- proving with specificity why the agency should be allowed to withhold any public record;
- submitting a petition for extension to the Supervisor of Records for additional time to respond to the request

Public Records Requests

Requests for public records can be made in person, by first class mail, by email, by fax or by phone. Requests for public records shall include a reasonable description of the requested record so that the RAO(s) can identify and locate it properly. The Springfield Housing Authority does not require using any special form for a request however a form can be provided upon request.

The SHA may require a requester to specify the purpose for a request only if:

- the requested records concern information which may be exempt from disclosure pursuant to M.G.L. c.4, §7 (26)(n);
- the SHA needs to determine whether the records are requested for a commercial purpose;
- the SHA needs to determine whether to grant a request for a fee waiver.

Response to Requests for Records

The Springfield Housing Authority must respond to all requests for public records within 10 BUSINESS days unless an extension of time is permitted in a manner consistent with 950 CMR

32.062(2)(i) and (4). The term “business day” excludes weekends, legal holidays and unexpected closure of the office (e.g., due to inclement weather). If full response, including provision of records, cannot be made within 10 business days, the RAO must respond to the requestor confirming receipt of the request and informing him/her what information will be withheld (if known), explaining reasons for inability to provide a response within 10 days and indicating a reasonable timeframe in which the public records sought will be provided.

The timeframe cannot exceed 25 business days after receipt of request without extension.

If more than 25 days response time is anticipated, the SHA’s RAO must notify the requester of possible/actual petition to the Supervisor of Records for extension of time. The SHA may ask that the requester voluntarily assent to additional time.

No fee for the provision of a public record can be charged if the RAO fails to respond to the requester within ten business days.

The RAO may delay provision of records until all fees related to a request are received in full.

In order to ensure more efficient response and reduce fees charged to the requester, the SHA's RAO may suggest a reasonable modification of the scope of the request.

Denial of Request for Public Record

The Springfield Housing Authority shall provide a written notice by first class mail or electronic mail if a request for public records was denied. The SHA's written Notice shall include the following information:

- the date of the request;
- identification of any records sought that are not in possession or custody of the SHA and identification of any other agency (if known) that may be in possession of the sought records;
- identification of any specific records that the SHA intends to withhold and explanation on what basis (what type of exemption) is applicable to the denial;
- identification of any portions of responsive records that the SHA intends to produce if applicable;
- a statement informing the requester of the right of appeal to the Supervisor of Records and the right to seek judicial review of any unfavorable decision by commencing a civil action in the superior court pursuant to G.L. c.66, §10A(c).

Petition to the Supervisor of Records

The Springfield Housing Authority may, within 20 business days of receipt of request, petition the Supervisor of Records for additional time, **not to exceed an additional 30 business days** "for good cause shown". "Good cause" will be analyzed based upon: amount of time required to search for and redact records; office hours & capacity of office; efforts undertaken to respond to request and previous requests; number of requests, including if part of a series of contemporaneous requests that are frivolous, intended to intimidate or harass.

The Supervisor will also consider the public interest in expeditious disclosure when deciding whether to grant more time to respond.

A petition for extension of time shall include a brief narrative detailing why an extension is necessary.

Copies of Records

The requester shall indicate in what form (hard copy or electronic) he/she would prefer to get a copy of the requested record (if applicable). The requester shall be permitted (to the extent feasible and at reasonable times) to view and inspect records prior to obtaining copies or use a personal device (camera or portable scanner) to copy records.

Fees

The SHA's RAO may assess a reasonable fee for production of records other than those "freely available" (for example, copies of the Minutes of Board Meetings, Applications and Continued Occupancy Policy, or Procurement Policy posted on the web-site). Fees shall not exceed actual cost for reproducing the record, actual cost of postage (if requester asks for records to be mailed), actual cost of duplicating documents not susceptible to ordinary means of duplication. No copying fees will be assessed to electronic copies or records provided by fax.

Photocopy fees are limited to \$.05/page for black and white copies and printouts, one or two-sided.

The RAO shall provide a written, itemized, good faith estimate of any fees that may be charged to produce the records prior to complying with a public records request within ten business days.

The Springfield Housing Authority will not assess a fee for the first two hours of time spent searching for, compiling, segregating or reproducing a requested record. The fee charged for compiling, segregating or reproducing a requested record will not exceed \$14.00 unless the SHA needs to use services of vendors like outside legal counsel, IT consultant or any other consultant. If the SHA hires an attorney or a consultant in order to respond to a request for public record, the hourly rate is capped at \$25.00. The SHA may petition the Supervisor of Records for a higher hourly rate, or to charge for segregation and redaction time.

The SHA may waive or reduce the amount of any assessed fee if the requester lacks the financial ability to pay it; disclosure of a requested record is in the public interest; disclosure is not primarily in the commercial interest of the requester.

APPEALS

A requester may appeal response of RAO to the Supervisor of Records:

Secretary of the Commonwealth
Public Records Division
McCormack Building, One Ashburton Place, Room 1719, Boston, MA 02108
Tel.: 617-727-2832. Fax: 617-727-5914. Email: pre@sec.state.ma.us

All requests to appeal must be filed in writing within 90 calendar days of the request. When submitting an appeal, a requester shall describe the nature of the objections to the response or failure to respond on time and include a complete copy of the request and all written responses associated with the request. A copy of the petition has to be provided to the RAO.

The Supervisor of Records must issue decision within 10 business days of receipt of appeal and if the requester is dissatisfied, he/she may appeal Supervisor's decision to Superior Court.

Alternatively, the requester may bypass the Supervisor of Records and go directly to Superior Court.

The Springfield Housing Authority will comply with all other terms of the Massachusetts Public Records Law not covered by this policy.

To submit a request for public records please
email to: fgousseynoff@shamass.org and mroman@shamass.org
Tel.: 413-785-4500
Fax: 413-785-4516