

May 8, 2019

Erica Barnett
Via electronic mail: ericacbarnett@gmail.com

Re: Appeal of Public Disclosure Request C039575-031919

Dear Ms. Barnett:

This letter is in response to your appeal dated April 29, 2019 regarding the Seattle Human Services Department's response to your March 19, 2019 public disclosure request (#C039575-031919). You have appealed the decision to redacted certain responsive documents because:

- The "deliberative process" exemption should not be applied to information regarding decisions that have been made, so if ANY of the recommendations, drafts or opinions have been decided on, this exemption ceases to protect them from disclosure. In this case, the decision NOT to locate a safe parking lot in Genesee Park has been made, therefore the records that relate to discussions that led up to this decision are not exempt from disclosure. The city attorney's own guidance on this exemption makes this clear: "Once the decision has been made, this exemption no longer applies, and all records that were formerly exempt under this exemption must be released." For example, in the document titled "Safe Parking Pilot Outreach Timeline" (attachment B), the outreach to the Mount Baker/Genesee Park neighborhood has taken place and a decision on this proposal has been made; therefore, all the information in this chart is now public information. Again, per the City Attorney's own guidance to departments: "Sometimes people refer to the 'Draft' exemption. There is no such thing. A document is never exempt merely because it is a 'Draft.'"
- The deliberative process only applies to internal communications. Any FAQs provided to neighborhood and community stakeholders (from the document titled "community meeting" (attachment C) have been disseminated and widely discussed outside the city of Seattle and are therefore no longer internal documents. If there was public mention of the subject discussed in these records, they should be disclosed.
- The exemption also applies only to documents that are part of the deliberative or policy-making process; records about implementing policy are not covered. For this reason, inter-agency (as opposed to intra-agency) discussions are not covered by this exemption. In this case, the discussions between the Human Services Department (e.g. Jason Johnson, Tiffany Washington, Lily Rehrmann), the Department of Neighborhoods (e.g. Tom Von Bronkhorst), and the mayor's office (e.g. DM Moseley, Tess Colby) are inter-agency discussions that should not be covered by the deliberative process exemption.
- The deliberative process exemption does not apply to factual information, or matters that are assumed to be factual for discussion purposes. Much of the information that is redacted consists of factual information, including responses to FAQs about the proposed safe parking pilot. Unless disclosure of the records would reveal or expose the deliberative process, as distinct from the facts used to make a decision, the exemption does not apply.

We have considered your appeal and respond as follows:

The redactions applied to the documents produced thus far in response to C039575-031919 have been made pursuant to RCW 42.56.280, which exempts "Preliminary drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with an agency action." As has been communicated to you in the April 30, 2019 email from Meg Olberding, a decision has not been made as to the siting of the potential Safe Parking Pilot program.

The document named "Attachment C – Safe Parking Pilot Project Flyer – 22119_Redacted.pdf" is a preliminary draft that was circulated within the City and to its contracted service provider for services related to this proposed program that reflects recommendations and opinions as part of the ongoing discussion related to the decision of where to site a potential pilot program. For the purposes of this analysis the communications between and amongst the City, its constituent departments, and contracted partners

are within the scope of recommendations and opinions the deliberative process exemption is intended to protect while a decision on a policy is pending.

With this response, we will consider your appeal of request C039575-031919 closed.

We will continue responding to your request as previously communicated through the City's Public Records Portal.

Sincerely,

Jane Klein
Sr. Executive Assistant