

§ 1703.16

in § 1703.11(b) pursuant to which the denial was made;

(3) A brief statement of the reason or reasons for the denial, including the FOIA exemption or exemptions which the FOIA Officer has relied upon in denying the request; and

(4) A statement that the denial may be appealed under § 1703.16 of this subpart and a description of the requirements of that section.

[63 FR 71005, Dec. 23, 1998, as amended at 65 FR 55173, Sept. 13, 2000. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1703.16 Appeals of denials.

(a) *Right of appeal.* If a request, including a request for expedited processing, has been denied in whole or in part, the requester may appeal the denial to: FOIA Appeals Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW, Fourth Floor, Washington DC 20552. Electronic appeals shall be submitted to foia_appeals_office@ofheo.gov with "FOIA Appeal" in the subject line.

(b) *Letter of appeal.* The appeal must be in writing and submitted within 30 days of receipt of the denial letter. The appeal shall be submitted in the manner described in § 1703.13, except that it shall be clearly marked "FOIA Appeal" instead of "FOIA Request." An appeal shall include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons, or arguments advanced in support of disclosure of the requested record. An improperly addressed appeal shall be deemed not to have been received for the purposes of the 20-day time period set forth in § 1703.17(b) until it is received, or would have been received with the exercise of due diligence, by the Appeals Officer.

(c) *Action on appeal.* The disposition of an appeal will be in writing and will constitute the final action of OFHEO on a request. A decision affirming in whole or in part the denial of a request will include a brief statement of the reason or reasons for affirmance, including each FOIA exemption relied on. If the denial of a request is reversed in whole or in part on appeal, the request will be processed promptly in accordance with the decision on appeal.

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(d) *Judicial review.* If the denial of the request for records is upheld in whole or in part, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies, giving rise to a right of judicial review under 5 U.S.C. 552(a)(4). However, a requester's refusal of OFHEO's offer of an opportunity to limit the scope of the request or arrange an alternate time frame for processing the request shall be considered as a factor in determining whether "exceptional circumstances" exist, which permits a court in which a requester has sought judicial review, to grant a stay to allow OFHEO to complete its review of the records.

[63 FR 71005, Dec. 23, 1998, as amended at 65 FR 55173, Sept. 13, 2000. Redesignated and amended at 65 FR 81327, Dec. 26, 2000]

§ 1703.17 Time limits.

(a) *Initial request.* Following receipt of a request for records, the FOIA Officer will determine whether to comply with the request and will notify the requester in writing of his or her determination within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the request.

(b) *Appeal.* A written determination on an appeal submitted in accordance with § 1703.16 of this subpart will be issued within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of the appeal. However, determination of an appeal of a denial of expedited processing will be issued as expeditiously as practicable. When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(c) *Extension of time limits.* The time limits specified in either paragraph (a) or (b) of this section may be extended in unusual circumstances after written notice to the requester setting forth