

MOVING KING COUNTY RESIDENTS FORWARD

PUBLIC RECORDS DISCLOSURE POLICY

AGENCY DESCRIPTION:

The Moving King County Residents Forward is the functional equivalent of a sub-agency of a local government as defined by RCW 42.30.020(c). A non-profit corporation formed under IRS 501 (c) (3), its purpose is to support the programs of the King County Housing Authority (“KCHA”) and to own a portfolio of properties for the benefit of low-income residents in King County, Washington.

1. PURPOSE:

- 1.1 Public Records Act:** The Public Records Act, Chapter 42.56 RCW, requires the Moving King County Residents Forward (“MKCRF”) to make identifiable, non-exempt public records available for inspection and copying upon request, and to publish rules of procedures to inform the public how access to public records will be accomplished. The purpose of the Public Records Act is to provide the public with full access to information concerning the conduct of government, mindful of individuals’ privacy rights and the desirability of efficient administration of government. The Public Records Act provides a statutory framework by which to administer access to public records.
- 1.2 MKCRF Policy and Procedure:** The purpose of establishing the following policy and procedure is to provide a method by which MKCRF staff will review and respond to requests for public records within the Public Records Act framework. The information contained in this Policy is designed to aid both those requesting public records and those responding to records requests. The policy and procedures should assist in guiding expectations of Requestors and providing notice of a mechanism by which to appeal a records decision, if necessary.

2. REFERENCE:

- Chapter 42.56 RCW, Public Records Act
- Chapter 44-14 WAC Public Records Act – Model Rules

- 3. POLICY:** MKCRF shall provide for inspection and copying of requested public records as provided in this policy and procedure, unless such records are exempt from disclosure under Chapter 42.56 RCW or other laws under which disclosure is regulated. KCHA staff, as operators of the MKCRF properties, shall provide the fullest assistance to Requestors in obtaining the public records they seek.

4. RESPONSIBILITY/AUTHORITY:

- 4.1 Public Information Officer:** The Deputy Executive Director of KCHA is the designated Public Information Officer (PIO) for MKCRF. MKCRF’s PIO will oversee compliance with the Public Records Act and these procedures. MKCRF’s PIO may delegate the responsibilities of processing requests to other staff. Departments may also designate records coordinators within specific departments to facilitate access to public records within that department, so long as each coordinator is identified to the PIO.

4.2 KCHA Staff: KCHA staff, under terms of its Operating Agreement with MKCRF will provide assistance to Requestors, reasonably ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with essential functions of KCHA. Assigned KCHA staff will be responsible and held accountable to meet MKCRF’s responsibilities of this policy. Failure to do so may result in disciplinary actions.

4.3 Requestors: While Requestors are not required to specifically name the Public Records Act, they must give reasonable notice that the request is being made pursuant to the Public Records Act. Requestors must request “identifiable records” or classes of records before MKCRF is obligated to respond to a request. An “identifiable record” is one that MKCRF can reasonably locate. However, a Requestor is not required to specifically state the exact record sought. For example, if a request uses inexact phrases such as “relating to” a topic (such as “all records relating to the Greenbridge project”), MKCRF may interpret the request to be for records which directly and fairly addresses the topic. If MKCRF receives a “relating to” or similar request, MKCRF should seek clarification from the Requestor to determine what records directly and fairly address the topic.

5. DEFINITIONS:

Active Record: An active record is used in an office on a routine basis and accessed at least several times per year. Active records are usually kept on-site.

Archival (Appraisal Required) Record: Public records with archival designation are records which may possess enduring legal and/or historic value and must be appraised by Washington State Archives on an individual basis. Records not selected for retention by Washington State Archives may be disposed of after appraisal.

Archival (Permanent Retention) Record: Public records with archival (permanent retention) designation are records which possess enduring legal and/or historic value and must not be destroyed. These records need to either be transferred to Washington State Archives or retained and preserved according to archival best practices until such time as they are transferred to Washington State Archives.

Essential Record: Essential records are those MKCRF must have in order to maintain or resume business continuity following a disaster. While the retention requirements for essential records may range from very short-term to archival, these records are necessary to resume core functions following a disaster. Security backup of these public records should be created and may be deposited with Washington State Archives.

Inactive Record: An inactive record is used or accessed in an office infrequently or no longer used in the conduct of current business, but is still required to be kept by the retention schedule for legal or historical purposes. Inactive records are usually stored off-site.

Public Record: RCW 42.56.010 defines a public record as “...any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics...”

Records Disposition: Actions taken with records when they are no longer required to be retained by the agency. Possible disposition actions include transfer to archives and destruction.

Retention Schedule: A table setting out requirements adopted by the Washington State Local Records Committee which specifies the length of time each record series will be retained by the agency, whether the record is designated essential, archival, or potentially archival, and final disposition of the record.

Writing: RCW 42.56.010 defines a writing as any “. . . handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.”

6. GUIDELINES:

6.1 Public Information Officer

Moving King County Residents Forward
600 Andover Park W
Seattle, WA 98188
Fax: 206-574-1104
Email: Publicdisclosurerequest@kcha.org

6.2 Availability of Public Records:

- a. **Index.** MKCRF determined by Resolution #14, signed by the MKCRF Board Director President on June 17, 2013, that maintaining an index is unduly burdensome, costly, and would interfere with agency operations due to the number and complexity of records generated as a result of the wide range of MKCRF activities and office locations. MKCRF will make available for public disclosure all indices which may at a future time be developed for MKCRF use.
- b. **MKCRF Web site.** Some records are available on the MKCRF's web site at www.mkcrf.org. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.
- c. **Protocol for Inspection/Copying.** Public records are generally available for inspection and copying during normal business hours of Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays. Records must be inspected at the Central Administrative office. Requestors are prohibited from removing records from KCHA offices.
- d. **Maintenance/Order of Records.** MKCRF will maintain its records in a reasonably organized manner. MKCRF will take reasonable actions to protect records from damage and disorganization.
- e. **Location of the records.** Public records are available for inspection and copying during normal business hours of MKCRF, Monday through Friday, 10:00 a.m. to 3:30 p.m., excluding legal holidays. Records must be inspected at KCHA offices located at 600 Andover Park W, Tukwila, WA, unless the requestor pays for copies as provided in the Policy and in Chapter 42.56 RCW.

6.3 Making a Request For Public Records:

- a. Any person wishing to inspect or copy public records of MKCRF should make the request in writing on MKCRF's Public Disclosure Request form. A copy of the Public Records Request form may be obtained from the PIO or downloaded from MKCRF's website.

Requestors should follow the form's instructions on submission of their public records request.

Persons wishing to inspect or copy public records may also make the request in writing in person, by regular mail, e-mail, or fax to the designated Public Information Officer as set forth in Section 6.1. The PIO may accept, but shall not be required to accept, requests for public records orally (in person or by telephone).

All requests for public records must be addressed to the PIO, and should include the following information:

1. Name of Requestor;
2. Date of request;
3. Phone, e-mail, and/or address or other contact information of Requestor;
4. Identification of the public records adequate for the PIO or designee to locate the records (title and date, if known);
5. Location (department) of the requested records, if known;
6. Whether the Requestor intends to inspect the records or obtain a photocopy of the records, at the cost set forth in Section 6.17 of these guidelines; and
7. Method by which MKCRF should contact Requestor.

If the Requestor indicates a desire to remain anonymous, MKCRF should still process the request for public records, unless the specific nature of the request requires that a name be provided. In such instances, MKCRF shall ensure that it has adequate contact information for the Requestor (e.g., mailing or email address) to respond to the request.

- b. If the request is made orally (in person or by telephone) or the Requestor is in need of assistance, responding KCHA staff will confirm receipt of the information and the substance of the request in writing by using the list in Section 6.3.a (1-7) and forward that information to the PIO.
- c. If the record(s) requested is not easily identified, may be kept by multiple departments, or the Requestor is unsure of where to file the request, the Requestor should direct the request to the PIO.
- d. Affected staff will be advised by the PIO or designee to retain possession of records covered by public records requests, including any records that may be scheduled for destruction. KCHA staff may not destroy or otherwise delete covered records until the request is fulfilled.
- e. A Requestor is not typically required to state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the PIO or designee may inquire about the nature or scope of the request. If the request is for a list of individuals, the PIO may ask whether the Requestor intends to use the records for a commercial purpose. MKCRF is prohibited by statute from disclosing lists of individuals for commercial purposes. Any person requesting public records that includes a list of individuals will be required to provide a declaration under penalty of perjury, certifying sufficient facts from which the PIO can reasonably determine that the records will not be used for any commercial purpose (profit-expecting activity) prohibited by RCW 42.56.070(9) unless specifically authorized by other law.

6.4 Processing Public Records Requests:

- a. The PIO or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- b. Within five business days of receipt of the request (day one is the first working day after the request is received), the PIO or designee will do one or more of the following:
 - 1. Make the records available for inspection or copying; or
 - 2. identify an internet location where the record can be accessed. Requestors who cannot access the internet may be provided hard copies or access to a KCHA terminal to access the record; or
 - 3. if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the Requestor; or
 - 4. provide a reasonable estimate of when records will be available; or
 - 5. if the request is unclear or does not sufficiently identify the requested records, request clarification from the Requestor. Such clarification will be requested and provided in writing. The PIO or designee may revise the estimate of when records will be available; or
 - 6. deny the request.
- c. If MKCRF does not respond in writing within five business days of receipt of the request for disclosure, the Requestor should consider contacting the PIO to determine the reason for the failure to respond.
- d. In the event that the requested records contain information that may affect rights of others and/or may be exempt from disclosure, the PIO or designee may, prior to providing the records, give notice to those persons. Such notice should be given to make it possible for those receiving the notice to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will typically include a copy of the request.
- e. Some records are exempt from disclosure, in whole or in part. If MKCRF believes that a record is exempt from disclosure and should be withheld, the PIO or designee will state the specific exemption and provide a brief explanation of why the record is being withheld. If only a portion of the record is exempt from disclosure, but the remainder is not exempt, the PIO or designee will redact the exempt portions and provide a brief explanation of why portions of the record are being redacted.

6.5 Inspection of Records:

- a. MKCRF will provide a space for persons to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The Requestor shall indicate which documents he or she wishes the agency to copy. **Inspection will be denied and the records withdrawn by the PIO (or designee) if the Requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere with other essential functions of MKCRF.**
- b. Parties wishing to inspect electronic records may be provided copies of the records on a CD or other storage device, may be directed to an internet address where the records can be accessed, or may receive records by email. If a Requestor cannot access records in these ways, MKCRF may provide hard copies or allow a Requestor to view copies on a KCHA computer.
- c. The Requestor must make arrangements to claim or review the assembled records within thirty days of notification that the records are available for inspection or copying.
- d. If the Requestor fails to claim or review the records within the thirty-day period or make other arrangements, MKCRF will close the request and re-file the assembled records. In the event the Requestor submits a new request for the same or almost identical records, the process will begin anew.

- 6.6 Providing copies of records:** After inspection is complete, the PIO or designee shall make the requested copies or arrange for copying. The Requestor shall pay any applicable deposit prior to copies being made. Full payment for copies must be received prior to delivery of the requested copies.
- 6.7 Providing records in installments:**
- a. When the request is for a large number of records or when a portion of responsive records is more readily available than others, the PIO or designee may provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way.
 - b. If, within thirty days, the Requestor fails to inspect the available installments, the PIO officer will discontinue his/her search for the remaining records and close the request.
- 6.8 Completion of response to inspection records:** When the search for requested records is complete and all requested records are provided for inspection, the PIO or designee will indicate that MKCRF has completed a reasonable search for the requested records and made any located, nonexempt records available for inspection.
- 6.9 Closing withdrawn or abandoned requests:** When the Requestor either withdraws the request or fails to fulfill his or her obligation to timely inspect the records or fails to pay the required amount due for requested copies, the PIO or designee will close the request and indicate to the Requestor that MKCRF has closed the request.
- 6.10 Later discovered documents:** If, after MKCRF has informed the Requestor that it has provided responsive records, MKCRF becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the Requestor of the additional documents and provide them as soon as possible. However, a public records request is not continuing in nature. If a Requestor desires additional records created or obtained by MKCRF after the date of the original request, the Requestor must submit a new request.
- 6.11 Completion of request:** MKCRF's response to a request shall be deemed completed upon the Requestor's inspection of the records or upon notification that copies of all the requested records are available for payment and delivery or pick up, or that no responsive records exist.
- 6.12 No duty to create new records:** MKCRF is not obligated to create new records to satisfy a records request;.
- 6.13 Processing of public records requests—electronic records:**
- a. The process for requesting electronic records is the same as for requesting public records in hard copy.
 - b. When a Requestor seeks records in an electronic format, the PIO or designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.
 - c. The cost of providing electronic records is addressed in WAC 44-14-07003. It provides, in part,
 "...As with charges for paper copies, "actual cost" is the primary factor in charging for electronic records. In many cases, the "actual cost" of providing an existing electronic

record is de minimis. However, if the agency has a paper-only copy of a record and the requestor requests an [electronic copy], the agency incurs an actual cost in scanning the record (if the agency has a scanner at its offices).”

- d. With the consent of the Requestor, MKCRF may provide customized access if the record is not reasonably translatable into the format requested. MKCRF may charge a fee consistent with RCW 43.41A.130, which states in part, “...Fees for staff time to respond to requests and other direct costs may be included in costs of providing customized access...”
- e. Electronic mail (e-mail) is an informational transfer system which uses computers for sending and receiving messages. Email messages are public records when they are prepared, owned, used, or retained by MKCRF and relate to the conduct of government or performance of any governmental or proprietary function.

6.14 Processing of public records requests—photographs:

- a. Photographs, whether in digital or in print form, are subject to disclosure in response to public records requests. However, a photograph may be exempt from disclosure to the extent it reveals personally identifiable information about a person. Information that is “personally identifiable” includes the person’s face or body (including distinguishing birthmarks, tattoos, scars, etc.), unique clothing to that person (e.g., their name on a sports or work uniform) and any personal belongings or documents from which the identity of a specific person or persons, or private information that could be determined by the viewer of the photo.
- b. If a photograph(s) falls within the scope of a public records request and contains information that could be determined to contain possibly exempt information, it should be sent to the PIO or designee for review and a determination of whether it should be provided to the party or parties requesting such photographs.
- c. If it is determined that the photograph is to be provided due to the request, and the photo is of the inside of a tenant’s unit, then the tenant should be notified of the request as a courtesy to that tenant.

6.15 Exemptions from Disclosure:

- a. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any “other statute” exempts or prohibits disclosure. Requestors should be aware of exemptions, outside the Public Records Act, that restrict the availability of some documents held by MKCRF for inspection and copying. Exemptions outside the Public Records Act that restrict the availability of some documents held by MKCRF for inspection and copying include, but are not limited to, those set forth for municipalities in the most recent list of “other statutes” posted on the web site of Municipal Research and Services Center, which is presently www.mrsc.org/publications/pral2.pdf, Appendix C, and which is incorporated herein by reference. This list of exemptions is available for inspection and copying from the PIO.
- b. MKCRF is prohibited by statute from disclosing lists of individuals for commercial purposes.

6.16 Special Processing Procedures:

- a. If a request for records is made by another government agency, then the request does not need to go through the PIO, unless the request includes confidential information about MKCRF employees, tenants or vendors, or other records that would be exempt under the Public Records Act or other statutes.

- b. If a request for records is made by a MKCRF vendor, contractor or consultant that is performing services for MKCRF, and their request pertains to that performance, then the request does not need to go through the PIO, unless the request includes confidential information about MKCRF employees, tenants or vendors, or other records that would be exempt under the Public Records Act or other statutes.
- c. If a request for records is made directly by a current MKCRF tenant to review or make copies of their case file, then the request does not need to go through the PIO.
- d. Requests for records, documents or other information made by third parties pursuant to subpoena, discovery procedures or other legal process authorized by federal or state law, regulations or court rules shall not be processed in accordance with this Public Records Disclosure Policy. KCHA staff receiving any subpoena, discovery request or other legal process on MKCRF's behalf shall immediately notify the Deputy Executive Director and Risk Manager.
- e. All other requests needing special processing procedures not meeting the definitions of items a-e in this section shall be granted on a case-by-case basis by the PIO.

6.17 Costs of providing copies of public records:

- a. Costs for paper copies: There is no fee for inspecting public records, and a Requestor may obtain standard black and white photocopies of up to ten pages at no charge. Fifteen cents (\$.15) per page will be charged if the request exceeds ten pages. If, at MKCRF's discretion, materials need to be copied by an outside source either due to volume, current workload of KCHA staff, or any other reason, the Requestor will be charged the actual amount invoiced to MKCRF by the copying vendor.
- b. Envelopes and/or packaging are charged at the actual costs of those supplies.
- c. Postage is charged at the actual postage costs of such postage.
- d. Costs for electronic copies: The cost of a DVD/CD shall be \$1 per disc and the cost to scan the records if scanning is necessary. There will be no charge for e-mailing electronic records to a Requestor, except where another cost applies. Fifteen cents (\$.15) per page will be charged for hard copy records that are scanned into electronic format.
- e. In the event a request is estimated to exceed \$100, MKCRF may require the Requestor to deposit an amount not to exceed 10% of the estimated cost prior to the duplication of record(s).
- f. Payment may be made by cash or by check, cashier's check or money order payable to "KCHA". Please note "MKCRF" on the information line of the check.
- g. Copy charges must be waived when producing documents via a subpoena request.
- h. Copy charges may be waived when the Requestor is a recipient in a MKCRF housing program and they are requesting copies of their own tenant and/or program file. The copies must be requested by the tenant or their authorized representative.

6.18 Review of denials of public records:

- a. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the PIO for a review of that decision. The petition must include a copy of or shall reasonably identify the written statement by the PIO or designee denying the request.
- b. The PIO or designee will immediately consider the petition and either affirm or reverse the denial within five days following the public records officer's receipt of the petition, or within such time as MKCRF and the Requestor mutually agree.

Appendix A

Exemption and Prohibition Statutes Pertaining to Public Records Disclosure by MKCRF

These are in addition to any exemptions in Chapter 42.56 RCW. This list is for informational purposes and is not intended to be exclusive or exhaustive. Public Records may be exempt from disclosure under other laws.

Washington State Statutes

Citation Records

RCW 4.24.550	Information on sex offenders to public
RCW 5.60.070	Court-ordered mediation records
RCW 19.215.020	Destruction of personal health and financial information
RCW 19.34.240(3)	Private digital signature keys
RCW 19.215.030	Compliance with federal rules
RCW 26.44.030	Reports of child abuse/neglect
RCW 27.53.070	Records identifying the location of archaeological sites
RCW 42.23.070(4)	Municipal officer disclosure of confidential information prohibited
RCW 42.41.030(7)	Identity of local government whistleblower
RCW 42.41.045	Non-disclosure of protected information (whistleblower)
RCW 42.56.230	Personal Information
RCW 48.62.101	Local government insurance transactions – access to information
RCW 50.13.060	Access to employment security records by local government agencies
RCW 51.28.070	Worker's compensation records
RCW 51.36.060	Physician information on injured workers
RCW 70.123.075	Client records of domestic violence programs

Federal Confidentiality Statutes and Rules

42 USC 405(c)(2)(vii)(I)	Limits on Use and Disclosure of Social Security Numbers.
5 USC 552a	Federal Privacy Act