



Department of Justice
Washington, D.C. 20530

ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION

14 FEB 1977

Mrs. Lillian Stone Weisberg
Route 12
Old Receiver Road
Frederick, Maryland 21701

Dear Mrs. Weisberg:

This responds to your letter of January 1, 1977, to the Office of Management and Finance, Department of Justice, requesting your records in the Department. Your request was forwarded to the Civil Division for a response as to our files.

After a search of the Civil Division records, we have located two files on litigation which include material within the scope of your request. It is the Department's policy, as evidenced by our regulations, 28 C.F.R. §16.57(b), as amended, 40 C.F.R. 50646, October 30, 1975, that a request for records by an individual concerning himself be treated as a request pursuant to the Privacy Act, 5 U.S.C. §552a, except that to the extent the records are exempt under the Privacy Act, the request is also reviewed under the Freedom of Information Act (FOIA), 5 U.S.C. §552, to determine entitlement under that Act.

Since the records located were clearly compiled in anticipation of civil actions, Harold Weisberg and Lillian Weisberg v. United States of America, U.S.D.C. D. Md., Civil Action No. 11036, and Harold Weisberg and Lillian Weisberg v. United States of America, U.S.D.C. D. Md., Civil Action No. 16392-T, these records fall within the exemption set forth in the Privacy Act which protects information compiled in reasonable anticipation of a civil action or proceeding. 5 U.S.C. §552a(d)(5). Accordingly, the records in the above-referenced files were viewed pursuant to the criteria established by the FOIA.

The files primarily contain pleadings filed by both parties. Additional documents in the file consist of

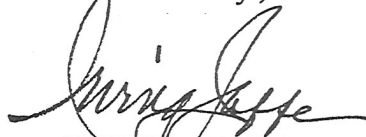


inter-agency or intra-agency memorandums or letters pertaining to the litigation. The public documents in the files, plus some intra- or inter-agency documents, will be made available for inspection at the Department of Justice, if you desire. Of course, you may already have copies of the public records. In the event, however, that you desire copies of the records, 28 C.F.R. §16.46 authorizes an appropriate charge to be made for copying. Specifically, 28 C.F.R. §16.46(b)(1) authorizes a charge of 10 cents per copy for each page supplied. Please advise us as to whether you desire us to make copies of the records and transmit them to you.

In addition, our files include correspondence between the Department and the Federal Bureau of Investigation regarding the litigation. I understand that the FBI has received your request and will respond directly thereto as to those documents. Insofar as the intra- or inter-agency correspondence is concerned, that correspondence is exempted from disclosure by 5 U.S.C. §552(b)(5); however, discretion on the part of the government may be used to release some. Accordingly, except for those documents which will be released under discretion, I deny your request to the extent that it includes these intra- or inter-agency documents.

If you regard this response as a denial, in all or in part, of a request which you intended to make under the Privacy Act, you are advised that under the provisions of 28 C.F.R. §16.45(a), you may appeal within thirty working days of receipt of this determination by writing to the Office of the Deputy Attorney General, United States Department of Justice, Washington, D. C. 20530. The envelope and letter should be clearly marked: "PRIVACY APPEAL--DENIAL OF ACCESS." Thereafter, judicial review will be available in the district in which you reside or have a principal place of business, or in the district in which the agency records are situated or in the District of Columbia.

Sincerely,



IRVING JAFFE

Acting Assistant Attorney General