

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON,

Plaintiff,

v.

PUBLIC BUILDINGS REFORM BOARD,
an agency of the United States,

Defendant.

NO. 20-cv-01364-RSL

ORDER GRANTING STATE OF
WASHINGTON’S MOTION FOR
SUMMARY JUDGMENT

This Court having considered the State of Washington’s Motion for Summary Judgment (Dkt. # 12) and the remainder of the record,¹ hereby GRANTS the State of Washington’s motion. Defendant has failed to establish either “exceptional circumstances” or “due diligence.”²

The Court hereby ORDERS the Public Buildings Reform Board, to:

¹ This matter can be decided on the papers submitted. The State’s request for oral argument is DENIED.

² To the extent defendant relies on *Cnty. Ass’n for Restoration of the Env’t, Inc. v. U.S. E.P.A.*, 36 F. Supp.3d 1039, 1047-54 (E.D. Wash. 2014), for the proposition that the Court lacks judicial authority to devise a remedy or that plaintiff’s Freedom of Information Act (“FOIA”) claim is moot, the case is easily distinguishable. Where, as in this case, the agency failed to notify the State whether it would get all the documents it requested, failed to make any production until after plaintiff was forced to file a motion for summary judgment, and has not yet completed the production (or substantially completed the production), the agency has failed to fully discharge its obligations under FOIA. Judicial relief is, therefore, available.

1 [1] within ten (10) business days of the date of this Order, provide to the State of
2 Washington a complete determination in response to the State's FOIA Request of February 3,
3 2020, as required by the FOIA;

4 [2] within fourteen (14) business days of the date of this Order, produce to the State of
5 Washington all non-exempt records previously identified by the Public Buildings Reform Board
6 as of July 22, 2020;

7 [3] within twenty-one (21) days of the date of this Order, complete a search for any other
8 non-exempt records responsive to the State's FOIA Request of February 3, 2020 and produce all
9 such documents to the State of Washington; and

10 [4] also within twenty-one (21) days of the date of this Order, to provide the State of
11 Washington with a certification that it has produced all non-exempt records requested by the
12 State of Washington.

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14 Plaintiff's request for an award of attorney's fees is premature. Once production occurs
15 and all disputes regarding the scope of the production and any claimed exemptions are resolved,
16 the fee issue may be raised again in a separate motion.

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18 Dated this 5th day of January, 2021.

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20 THE HONORABLE ROBERT S. LASNIK
21 United States District Judge
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