

FOIA Appeal: Single Family Insured Mortgagor Info.

Legal Opinion: GMP-0030

Index: 7.360, 7.465

Subject: FOIA Appeal: Single Family Insured Mortgagor Info.

December 9, 1991

Mr. Chris Carruth
4234 Chateau Blvd.
Kenner, Louisiana 70065

Dear Mr. Carruth:

This is in response to your Freedom of Information Act (FOIA) appeal dated September 17, 1991. You requested a list of single family loans insured by the HUD New Orleans Field Office for the months of May, June, and July, 1989, including the loan amounts, addresses, interest rates and terms. On February 20, 1990 the New Orleans Office advised you that this information was not available in their office. In response to an inquiry dated July 10, 1991 from Senator Breaux on your behalf, Robert J. Vasquez, Manager, New Orleans Office, advised Senator Breaux on August 23, 1991 that the information could not be disclosed under Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6).

I have determined to affirm the initial denial.

Exemption 6 protects information in medical, personnel and similar files. In determining whether information can be withheld within Exemption 6, the public interest purpose for disclosure of personal information must be balanced against the potential invasion of privacy. *Wine Hobby, USA, Inc., v. U.S. Internal Revenue Service*, 502 F.2d 133 (3rd Cir. 1974); *Southern Utah Wilderness Alliance, Inc. v. Hodel*, 680 F. Supp. 37, 38 (D.D.C. 1988).

United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989) (hereinafter "Reporters Committee") establishes a framework for analyzing the public interest under Exemptions 6 and 7(C) by establishing that only the furtherance of FOIA's core purpose of informing citizens about "what their government is up to" can warrant the release of information implicating individual privacy interests. *Reporters Committee*, 489 U.S. at 772-73.

Your letter indicates that you want release of the information to give the mortgagors an opportunity to refinance their high interest mortgage rates. Since your stated reason for disclosure of the information is purely for commercial purposes, this basis provides an insufficient "public interest" supporting reversal of the agency's initial decision. Also see *Aronson v. HUD*, 822 F.2d 182, 185-86 (1st Cir. 1987) (Plaintiff's "commercial motivations are irrelevant for determining the public

interest served by disclosure. . .") (emphasis in original).

The information you have requested is also contained in the Department's Privacy Act System of Records (HUD/Dept. 46-Single Family Case Files, Federal Register Privacy Act Issuance: 1987 Compilation). Therefore, the records are also withholdable under the Privacy Act at 5 U.S.C. 552a(b) and the Department's regulations at 24 C.F.R. 16.1(e)(3), which safeguard the release of privacy information without the express written consent of the person(s) involved. These provisions preclude the release of personal identifier information such as name and social security numbers.

On the basis of the reasons provided herein, this Office has determined that the information you requested is protected from disclosure under the Privacy Act and Exemption 6 of the FOIA.

You have the right to judicial review of this determination under 5 U.S.C. 552(a)(4).

Very sincerely yours,

Shelley A. Longmuir
Deputy General Counsel