

FOIA Appeal: Confidential Source Information

Legal Opinion: GMP-0053

Index: 7.320, 7.360
Subject: FOIA Appeal: Confidential Source Information
FOIA Exemption 6: Name/Address Withheld

February 13, 1992

Buffalo, New York 14207

Dear Mr.

This responds to your Freedom of Information Act (FOIA) appeal dated December 13, 1991. You appeal a denial of information from the Buffalo Office. Specifically, Joseph B. Lynch, Manager, on November 25, 1991 denied your request for two documents: (i) an inquiry to HUD that referenced your name, and (ii) a letter by HUD in response to that inquiry. These documents were withheld pursuant to Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6).

After careful consideration of your request, I have determined to affirm, in part, and reverse, in part, the initial denial of the Buffalo Office.

Exemption 6 of the FOIA protects information in medical and personnel files and "similar files" the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The Supreme Court in Department of State v. Washington Post, 456 U.S. 595 (1982), gave "similar files" a broad meaning under Exemption 6 to cover detailed Government records and files concerning an individual, when such files can be identified as applying to that individual. The Court made clear that any identifiable information which "applies to a particular individual," meets the threshold requirement for Exemption 6 protection. Id. at 602.

Since the documents you requested contain information which can identify the individual who has provided information to the Department, the two documents were characterized as "similar files," and properly withheld under Exemption 6.

In determining whether personal information can be withheld under Exemption 6, the public interest purpose for disclosure of the information must be balanced against the potential invasion of privacy. The public interest, in the context of Exemption 6, is the interest of the overall public, not that of the individual seeking the records for his or her own benefit. See, Wine Hobby, USA, Inc., v. U.S. Internal Revenue Service, 502 F.2d 133 (3d Cir. 1974).

One purpose of the exemption's protection is to encourage

private citizens to provide information to the government concerning possible violations of law. These individuals have a strong interest in assuring that their identities are private and confidential, as they may be subject to retaliation or other adverse action if their identities were disclosed. In addition to preserving the confidentiality of the person involved regarding the records which you requested, release of the name of the individual would also reveal personal information concerning that person's eligibility for federally subsidized housing. Therefore, consistent with federal law, we find a strong privacy interest in withholding information which reveals the financial status of individuals. See, Gregory v. Federal Deposit Insurance Corp., 470 F.Supp. 1329 (D.D.C. 1979). For these reasons, we do not find an overriding public interest for disclosure of this information.

However, 24 C.F.R. 15.21(b) provides that "any reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section." The two letters in question discuss certain information concerning you which is segregable and, therefore, can be disclosed without revealing any personal information which would divulge the identity of the source. Accordingly, I have determined to release copies of the two documents with information pertaining to the identity of the author of the letter redacted under Exemption 6. As to the material deleted, I have determined, pursuant to 24 C.F.R. 15.21, that the public interest in assuring the personal privacy of individuals militates against release of the withheld information.

In addition to the foregoing, I have determined to withhold the internal complimentary copy and concurrence blocks of staff personnel at the bottom of the letter dated August 6, 1991, under the authority of Exemption 2 of the FOIA, 5 U.S.C. 552(b)(2) and 24 C.F.R. 15.21 (a)(2). These provisions exempt administrative data related solely to internal personnel rules and practices of the Department from mandatory disclosure.

Enclosed are copies of the documents with deletions as indicated above. Please be advised that you have the right to judicial review of this determination under 5 U.S.C. 552(a)(4).

Very sincerely yours,

C.H. Albright, Jr.
Principal Deputy General Counsel

Enclosure

cc: Joseph B. Lynch, Manager Buffalo Office