

Legal Opinion: GMP-0097

Index: 7.350, 7.465  
Subject: FOIA Appeal: Appraisal Field Review Report

July 10, 1992

Stephen and Lisa Karn  
2209 131 Avenue, N.W.  
Coon Rapids, Minnesota 55433

Dear Mr. and Mrs. Karn:

This is in response to your Freedom of Information Act (FOIA) appeal of June 8, 1992. You appeal the denial of a copy of an Appraisal Field Review Report of your residence prepared by HUD staff. Thomas Feeney, Manager, Minneapolis-St. Paul Office, in a letter to you dated April 21, 1992, withheld a copy of the report under Exemption 6 of the FOIA, 5 U.S.C. Section 552(b)(6).

I have determined to reverse the initial denial.

Although the Minneapolis Office withheld the document under FOIA Exemption 6, nondisclosure is more applicable under Exemption 5. Since the Appraisal Field Review Report is an internal agency document containing a review of the site and the property, including repair conditions, and a review of the land value and the comparables, it would ordinarily be exempt from disclosure under the deliberative process privilege of Exemption 5. However, the deliberative process privilege of Exemption 5 does not pertain to purely factual matters appearing in internal memoranda. *EPA v. Mink*, 410 U.S. 73, 91, (1973). I have determined that the information contained in the field review report pertaining to your property is factual and therefore, can be released in its entirety. A copy of the Appraisal Field Review Report is enclosed.

Very sincerely yours,

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

Enclosure

cc: Yvette Magruder,  
Lewis Nixon, 5G