



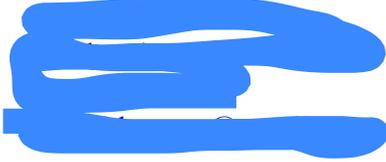
December 10, 2018

Marketing and  
Regulatory  
Programs

Keith Vance

RE: 2017-APHIS-02001-F

Animal and  
Plant Health  
Inspection  
Service



Legislative and  
Public Affairs

Dear Mr. Vance:

Freedom of  
Information

This response is in reply to your Freedom of Information Act (FOIA) request received in this office February 8, 2017 and assigned FOIA tracking number 2017-APHIS-02001-F, in which you requested the following records:

4700 River  
Road  
Unit 50  
Riverdale, MD  
20737-1232

- “. . . a digital copy of all inspection reports, research facility annual reports, regulatory correspondence, lists of regulated entities, and enforcement related matters regarding dog breeders. Date range from Jan. 1, 2015 through Dec. 31, 2016.”

Upon receipt, your request was forwarded to the Animal Care (AC) and Investigative and Enforcement Services (IES) program offices to conduct a search of their files for records responsive to your request. IES’s subsequent search of their electronic and paper files revealed three hundred and ninety seven (397) pages of documents responsive to your request. AC’s subsequent search of their electronic and paper files revealed nine hundred and fifty nine (959) pages of documents responsive to your request. Please note that forty nine (49) pages of the responsive IES records have been referred to the APHIS Office of the Chief Information Officer for review and response to you.

Certain of the records requested are contained in a Privacy Act system of records. See, [APHIS-8: Veterinary Services - Animal Welfare](#). Generally, under the Privacy Act, an agency shall not disclose information contained in a system of records, except pursuant to the written request by or consent of the individual to whom the record pertains, unless an exception applies. There are twelve exceptions under the Privacy Act to this general prohibition to disclosure. See 5 U.S.C. § 552a (b). One exception authorizes disclosure when the FOIA requires the release of information contained in a system of records. *Id.* at § 552a (b) (2).

As such, APHIS must release all requested records which are not exempt under the FOIA. Therefore, the records at issue have been reviewed under the FOIA. After a review of the records, it has been determined that certain information is exempt from release pursuant to FOIA Exemptions (b) (6) and (b)(7)(c).

The following information provides justifications and precedent for our withholding of information under the applicable FOIA exemptions:

FOIA Exemption (b) (6)

FOIA Exemption 6 permits the government to withhold from “personnel and medical files and similar files” information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” As a threshold matter, an inspection report contains information about an individual licensee and is therefore considered a “similar file.”

In order to determine whether a document may be withheld under Exemption 6, an agency must undertake a four-step analysis. First, the agency must determine whether the information at issue is a personnel, medical, or “similar” file; Second, the agency must determine whether there is a significant privacy interest in the requested information; Third, the agency must evaluate the requester’s asserted FOIA public interest in disclosure; and finally, if there is a significant privacy interest in non-disclosure and a FOIA public interest in disclosure, balance those competing interests to determine whether disclosure “would constitute a clearly unwarranted invasion of personal privacy.”

In this matter, we have withheld identifying information contained in the inspection reports and enforcement documentation, including the licensees’ name, address, USDA license number, & USDA customer number, the inspection report numbers, the inspection date, the type of inspection, microchip information of inspected animals, enforcement action reference numbers, and U.S. Postal certified mail numbers.

It has been determined that there is a substantial privacy interest in the withheld information. The licensed activity is withheld from release because the licensed activity has been determined to be taking place on a homestead, and the licensee has a substantial privacy interest in activities taking place on their homestead. The withholding of the identifying information is appropriate, because the public would be able to compare the publicly available inspection reports found in the APHIS Animal Care Public Search database against the requested redacted inspection reports, which, in this case, would reveal the identity of the licensee in those records. Similarly, withholding the enforcement action reference numbers is appropriate because release of that information would enable the public to compare the redacted records with other publicly available and accessible documents, which would reveal the identity of the licensee in those records. Withholding the microchip and U.S. Postal certified mail information is appropriate because both numbers can be tracked back to the owner or recipient of the animal / mailing, which would reveal the identity of the licensee in those records. As such, the full release of the requested documents would be considered an unwarranted invasion of personal privacy.

Under Exemption 6, the only pertinent public interest is whether release of the information would shed light on the agency's activities and the agency's performance of its statutory duties. We do find that there is public interest in the request for this information; however, the protection of homestead activities of the licensee far outweighs any public interest in disclosing of this personal information. Therefore, because the harm to personal privacy is greater than any minimal public

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interest that may be served by disclosure, release of this personal information would constitute a clearly unwarranted invasion of the privacy of the individual and is therefore exempt from disclosure.

FOIA Exemption (b) (7) (c)

Under Exemption 7, law enforcement purposes cover administrative enforcement actions. APHIS is authorized under the Animal Welfare Act (AWA), (see 7 U.S.C. 2131-2159) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) to assure the humane treatment of animals during transportation in commerce; and (3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen. The pertinent regulations enforcing the AWA are found at 9 CFR, Chapter 1, Subchapter A, Parts 1 – 4). The AWA ensures that all regulated commercial animal breeders, dealers, brokers, transportation companies, exhibitors, and research facilities are licensed or registered, and that his or her premises and any animals, facilities, vehicles, equipment, or other premises used or intended for use are in compliance with the AWA. In addition, the AWA authorizes APHIS to review and investigate and set civil penalties for alleged violations.

FOIA Exemption (b) (7) (c) permits the government to withhold information compiled for law enforcement purposes about individuals, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." The responsive records at issue were compiled as part of the AWA regulatory compliance process, and were compiled for law enforcement purposes.

Therefore, from the responsive records, Exemption (b)(7)(c) is also applied along with Exemption (b)(6).

This is our final response. If you have any additional questions regarding this matter, you may contact Hamilton Kuralt, the analyst who processed your request, at (301) 851-4010 as well as Mr. James Ivy, our FOIA Public Liaison, at (301) 851-4100 for any further assistance and to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); Telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to: Administrator, Animal and Plant Health Inspection Service, Ag Box 3401, Washington, DC 20250-3401. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request.

Keith Vance  
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Sincerely,

A handwritten signature in black ink, appearing to read "T. Woods", enclosed within a thin black rectangular border.

For:  
Tonya G. Woods  
Director  
Freedom of Information & Privacy Act  
Legislative and Public Affairs