

In Reply Refer To: **FOIA Request: 23-00895-F**

May 1, 2023

Michael Locke
MUCKROCK NEWS
263 Huntington Ave
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Boston, MA 02115

Email: 129831-94314899@requests.muckrock.com

Dear Mr. Locke:

This letter is the initial agency decision to your October 31, 2022, Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the Department of Veterans Affairs, Veterans Benefits Administration (VBA), FOIA Office requesting the following records:

All records related to VA home loan default servicing deficiencies held by Planet Home Lending LLC identified and indirectly mentioned in the VA OIG's September 30th, 2019 "Oversight and Resolution of Home Loan Defaults" audit. I am also requesting all records related to VA home loan default servicing deficiencies assigned to the VA Phoenix Regional Loan Center identified and indirectly mentioned in the VA OIG's September 30th, 2019 "Oversight, and Resolution of Home Loan Defaults" audit.

The Program Specialist from the VA Loan Guarantee (LGY) Staff Office conducted a search for documents responsive to your request. The search was conducted by utilizing the search criteria VA OIG's September 30th, 2019, Oversight and Resolution of Home Loan Defaults audit, VA Phoenix Regional Loan Center, and Planet Home Lending LL. At the conclusion of the search, documents totaling 211 pages were determined to be responsive to your request.

My review of the documents revealed that they contained information that falls within the disclosure protections of FOIA Exemption 6, 5 U.S.C. § 552(b)(6) and 6, 5 U.S.C. § 552(b)(5). Therefore, I am partially releasing 99 pages of your responsive records with portions withheld under FOIA Exemption 5 and FOIA Exemption 6.

FOIA Exemption 5 permits VA to withhold a document or information contained within a document as "pre-decisional" if two requirements are met. First, if there is an identifiable deliberative process. Second, the agency generated the information or document as part of the agency decision process. Stated another way, VA may withhold information under Exemption 5 where the document or its content makes recommendations or expresses opinions about legal or policy matters during a decision-making process and the document is not the decision document or incorporated into the decision document. Additionally, as a matter of Federal policy, the agency must state an articulate,

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foreseeable harm to the agency or its activities that could occur as a result of the release of the document or information.

My review of the documents identified as responsive to your FOIA request reveals that they contain information that falls within the protection of Exemption 5 and are marked as a "pre-decisional of the draft". Therefore, these documents status and email correspondences are pre-decisional as VBA's decision regarding the VA internal processes regarding the oversight and resolution of Default home loans in 2019 OIG. The deliberative process privilege of Exemption 5 is invoked as it is determined that the release of the pre-decisional document to the public would negatively impact frank discussion on matters of policy between subordinates' supervisors and VA senior leadership. Specifically, the information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 5 consists of pre-decisional draft documents and internal email discussions, as the individuals associated with this information have a personal privacy interest in it.

Upon further review of the responsive records, I have determined they also contain information, which is protected under FOIA Exemption 6, 5 U.S.C. § 552(b)(6). Therefore, I am also withholding documents under FOIA Exemption 6.

FOIA Exemption 6 permits the VA to withhold a document or information contained within a document if disclosure of the information would constitute a clearly unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under FOIA Exemption 6 where disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

Specifically, the information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 6 consists of VA employees and/or third-party individual or Veterans names of the non-selected applicants, telephone numbers, home addresses, email addresses, social security numbers, date of birth, reference contact names and phone numbers, as the individuals associated with this information have a personal privacy interest in it.

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government.

Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, I have not been able

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to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. The individuals associated with this information have a personal privacy interest in the information that outweighs any public interest served by the disclosure of their identities under FOIA. Consequently, I am denying your request for this information under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

If you disagree with my determination to withhold the information under FOIA Exemption 6, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VBA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VBA FOIA Public Liaison:
Email Address: FOIA.VBACO@va.gov
Fax: (202) 495-5567

Office of Government Information Services
Email: ogis@nara.gov
Fax: (202) 741-5769
Mailing Address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road (OGIS)
College Park, MD 20740-6001

Thank you for your interest in VA. If you have any further questions, please feel free to contact me and reference your case number 23-XXXXX-F or email at FOIA.VBACO@va.gov.

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Sincerely,



VBACO FOIA Officer

Attachment: (99 pages)