

January 21, 2010

Mr. Carl Slicer
(b)(6)

Re: Freedom of Information Act appeal dated December 21, 2009

Dear Mr. Slicer:

On December 3, 2009, you filed a Freedom of Information Act (FOIA) request for an electronic list of all credit unions to include the credit union name, address, administrative contact name, voice telephone, fax, e-mail address and website address. Staff attorney Linda Dent provided you with the requested information for federally insured credit unions, however e-mail addresses were withheld pursuant to exemption 6 of the FOIA (5 U.S.C. 552(b)(6)). On December 21, 2009, you appealed the decision to withhold e-mail addresses. Your request is denied pursuant to exemption 6 of the FOIA as explained below.

Exemption 6 of the FOIA protects information about an individual in "personnel and medical files and similar files" where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). The courts have held that all information that applies to a particular individual meets the threshold requirement for privacy protection. United States Department of State v. Washington Post Co., 456 U.S. 595 (1982). Although the language of exemption 6 includes personnel, medical and similar files, the Court has interpreted information found in similar files broadly to include all information that applies to a particular individual. See Id. at 599-603. E-mail addresses that identify an individual qualify as personal information in which individuals have a privacy interest. Once a privacy interest is established, application of exemption 6 requires a balancing of the public's right to disclosure against the individual's right to privacy. See Department of the Air Force v. Rose, 425 U.S. 352, 372 (1976); Associated Press v. Department of Defense, 554 F.3d 274, 291 (D.C. Cir. 2009). The Supreme Court limited the concept of public interest under the FOIA to the "core purpose" for which Congress enacted it: to shed light on an agency's performance of its statutory duties. Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 773 (1989). We do not believe that disclosure of the e-mail addresses will shed light on NCUA's performance of its statutory functions. Hence there would be no public interest in disclosure. The D.C. Circuit has held that if no public interest exists, then withholding the information is proper, even if the privacy interest is modest. National Association of Retired Federal Employees v. Horner, 879 F.2d 873, 879 (D.C. Cir. 1989). Even if there is some minimal public interest in disclosure, we believe it would be outweighed by the individuals' privacy interest. The withheld information meets the requirement for exemption 6 protection.

Pursuant to 5 U.S.C. 552(a)(4)(B) of the FOIA, you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court where you reside, where your principal place of business is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

/S/

Robert M. Fenner
General Counsel

GC/HMU:bhs
GC 10-0103
10-FOI-00029
2010-APP-00003