

FOIA Appeal: Investigatory Reports

Legal Opinion: GMP-0058

Index: 7.370, 7.425

Subject: FOIA Appeal: Investigatory Reports

February 20, 1992

J. Patrick Mensching, Esq.
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610 S. Main, Suite 300
Tulsa, Oklahoma 74119-1248

Dear Mr. Mensching:

This is in response to your Freedom of Information Act appeal, dated May 13, 1991, in which you appeal the denial of information pertaining to the Inland Mortgage Corporation, which was requested by Mr. Daniel Flick in a letter dated November 20, 1990. You stated that the Department ignored Mr. Flick's request. However, Gail Lively, Director, Executive Secretariat, responded to Mr. Flick in a letter dated February 6, 1991. Ms. Lively granted partial access to the documents requested and denied access to other documents under Exemption 5 of the FOIA, which protects the deliberative, decision making process of government agencies by exempting predecisional materials from public disclosure.

I understand that the United States Attorney's Office has, since your appeal letter, supplied you with copies of the GNMA default report and the Office of Lender Activities and Land Sales Registration's Monitoring Division's Summary of Review, dated November 26, 1990, both of which were initially denied under Exemption 5 of the Freedom of Information Act.

I have reviewed the remaining document, a Monitoring Division report that was denied under Exemption 5, and have decided to affirm the initial denial of that report under Exemption 7(A) and (D) of the FOIA. Exemption 7(A) protects documents compiled for law enforcement purposes if their disclosure could reasonably be expected to interfere with enforcement proceedings. The Inspector General is authorized to undertake law enforcement investigations pursuant to the Inspector General Act of 1978. Since all documents relating to Inland Mortgage have been compiled in connection with an on-going Inspector General's investigation, they are protected from disclosure by Exemption 7(A). I have determined that disclosure of this record would prematurely reveal evidence that would not otherwise be available to the public, and could impede the gathering of additional evidence. *National Public Radio v. Bell*, 431 F. Supp. 509 (D.D.C. 1977); *Curran v. Department of Justice*, 813 F.2d 473 (1st Cir. 1987).

This document is also protected under Exemption 7(D), which

protects the names of confidential sources, as well as the content of the material supplied by them. To reveal the names of

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confidential sources would be contrary to a major purpose of the exemption, which is to encourage private citizens to furnish information to government agencies. *Brant Construction Co. v. EPA*, 778 F.2d 1258 (7th Cir. 1985). Release of the document you requested would reveal the names of potential witnesses. I, therefore, have determined to affirm the denial of access to this information.

Pursuant to 24 C.F.R. 15.21, I have determined that the public interest in effective law enforcement and assuring the protection of confidential sources under Exemption 7(A) and (D) militates against release of the withheld information.

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