

Exhibit 13:

The following 3 pages are submitted as an Exhibit for 'Plaintiff's Memo, Presenting Details of his Complaint'.

Description of Exhibit Contents:

This is Plaintiff's Appeal (dated May 15, 2011) to the Response by Defendant FAA for FOIA #2011-2662. It includes a 2-page cover letter, and a 1-page attachment. The attachment is Defendant FAA's 1-page cover letter for their FOIA Response, signed by Clay Foushee, and received on 4/22/11.

28242 S. Salo Rd., Mulino, OR 97042

tel. (503) 710-1515

Sunday, May 15, 2011

Federal Aviation Administration
ARC-1, Asst. Administrator for Regions and Center Operations
800 Independence Avenue SW
Washington, DC 20591

Dear Sir,

This letter is an **appeal requesting reconsideration** of the response to FOIA request 2011-2662, as provided by Clay Foushee, AAE-1, and received on 4/22/11.

In his response, Mr. Foushee advised that FOIA Exemption-6 was applied to justify the withholding of 23-pages as well as dozens of redactions on the 70-pages that were provided. In Mr. Foushee's FOIA response letter (attached at ①), he first cited 5 U.S.C. 522, and later cited 5 U.S.C. 5(b)(c), though the intent was clearly 5 U.S.C. 552(b)(6), wherein the specific language of Exemption-6, if properly applied, allows the withholding of...

"...personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"

The list of FOIA Exemptions, as provided in 5 U.S.C. 552(b), is immediately followed by this explanatory note:

"Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made."

The records I requested and the records produced in Mr. Foushee's response to FOIA 2011-2662, have minimal personal information for which Exemption-6 can be properly applied. Simply, once the **Name/Phone/Address** data-fields are redacted, and spot-redactions are made to conceal identifying names (and ONLY the names) from the **What-do-you-want-to-talk-about** data-field, there remains no "person" to whom any other data can be attached. Furthermore, when a manager's name is cited in detailing the report, he/she is cited not as a "private" person but as an Agency official doing Agency work. Text describing the spoken words of, or actions taken by, this manager are official rather than personal, and thus do not meet the threshold requirement of applying "...to a particular individual." Thus, his/her name should not be redacted, as this would be a mis-application of FOIA Exemption-6.

We all understand that FOIA was created, and it persists nearly fifty years later, to help shine light on government activities, and to empower citizens while protecting against government inefficiencies. A program like our Administrator's Hotline, when too heavily cloaked, can drain enormous energies and funds while destroying both Agency missions and workplace morale. This is fundamentally why President Obama is so correct in his advocacy of Open and Transparent Government. Having said that, and frankly not caring in the least who the actual individuals are in any of the AHIS printouts responsive to my original FOIA request, would you please now fulfill my FOIA request as follows:

1. On the AHIS printouts, as was the pattern in records provided to similar FOIA requests, please fully disclose all data except for the two personally-sensitive printout areas, at **Name/Phone/Address**, and at **“What do you want to talk about?”**
2. for the **Name/Phone/Address** data-fields, please freely redact all three items. Clearly, I have no right to an address or telephone and, provided more care is taken to segregate real data elsewhere on the printout, I will gladly not know the name of the caller.
3. for the **“What do you want to talk about?”** data-field, redact ONLY firstnames and surnames, while retaining all other words, so as to allow fair disclosure of the non-personal details in the fullest possible story context. The caller is reporting a concern, so the reader should be able to recognize all non-personal details of that concern. If necessary, and while reviewing the final redaction copy to ensure it is complete, add arrows and letters (as in **A** for person-A, **B** for person-B, etc.) or some other detail, clarifying key redactions to ensure the reader can comprehend the general story as presented by the caller. This technique should rarely be needed and would be very quickly and easily done.
4. lastly, for the other records (the attachments, response letters, etc.) I requested in my original FOIA, please fully release the names/signatures/initials/sign-for's of the Director or other Agency official who should be considered accountable for the content of the response memo. Likewise, do not redact the name or workphone of other persons officially mentioned in the memo.

TO FULLY AND FAIRLY RESOLVE THIS FOIA APPEAL, I ask that the entire file for FOIA 2011-2662 be reviewed, that all records be re-processed in accordance with the above guidelines, and that the new FOIA package be promptly delivered to my home address, in accordance with FOIA law. I understand this includes a 20-workday Appeal-response timeline.

I look forward to your prompt closure of this Appeal. Thank you.

Sincerely,



Jeff Lewis

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails.”

- President Barack Obama, 1/21/2009



U.S. Department
of Transportation
**Federal Aviation
Administration**

APR 18 2011
Mr. Jeff Lewis
28242 S. Salo Road
Mulino, OR 97042

RCWD
CEBT 4-22-11
(7/8)

RE: Freedom of Information Act (FOIA Request 2011-2662)

Dear Mr. Lewis:

This letter responds to your January 18, 2011, request under FOIA, 5 U.S.C 522. You requested copies of all pages of all Administrator's Hotline Information System (AHIS) printouts for all Hotline complaints filed after January 1, 2004 for the following California ATCT facilities: San Francisco (SF0), San Jose (SJC), Concord (CCR), Napa (APC), and Reid-Hillview (RHV).

A search of the AHIS was conducted on February 10, which revealed 93 records responsive to your request. Enclosed are 70 pages consisting of documents responsive to your request. No Administrator's Hotline records were located for Napa and Reid-Hillview Air Traffic Control Towers. We are withholding four records out of 93 records which are comprised of 23 pages from disclosure under Exemption 6 of the FOIA. Exemption 6 of the FOIA protects information that pertains to an individual when the disclosure of such information "would constitute a clearly invasion of personal privacy" (5 U.S.C.5(b)(c)).

You may request reconsideration of this determination by writing to Paula Lewis, Assistant Administrator of Region and Center Operations, ARC-1. Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591. Your request must be made in writing 30 days before the date of receipt of this letter and must include all information and arguments relied upon. Your letter must state this is an appeal from the above-described denial/partial denial of a request made under the FOIA. The envelope containing the appeal must be marked "FOIA."

Processing this request by this office cost less than \$10.00; therefore, no fees will be assessed.

Sincerely,


Clay Foushee
Director, Office of Audit and Evaluation, AAE-1

Enclosures

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