



United States
Department of
Agriculture

August 18, 2011

Animal and
Plant Health
Inspection
Service

Daniel Kopf

Legislative and
Public Affairs

Dear Mr. Kopf:

Freedom of
Information

4700 River
Road
Unit 50
Riverdale, MD
20737-1232

This is in response to your June 22, 2011, Freedom of Information Act (FOIA) request for documents that show how repair orders were resolved by Ringling Brothers (52-C-0137) regarding Inspection Report (IR) dated March 19, 2009, (routine inspection) by Kimberly Duffiney. You are also seeking any other IR, violations, repair orders, etc. written by Kimberly Duffiney for Brian Staples (91-C-0060) as well as any other company or individual with regard to exotic cats dating from June 1, 2010 through June 21, 2011. Your request was received in this office on June 22, 2011, and assigned case number FOIA 11-587. We apologize for the delay of this response.

Animal Care (AC) and Investigative Enforcement Services (IES) employees conducted a thorough search of their files and located documents responsive to your request, which includes an open IES investigation. However, we are withholding records that are part of the open IES case FL11106-AC against Brian Staples, that may be responsive to your request under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies. If you wish, you may request IES case FL11106-AC at a later date.

The agency considered whether to make a discretionary release of these documents and determined that releasing this information would harm the agency's open investigation. We have concluded that disclosing documents that are part of an open investigation by APHIS' Investigative and Enforcement Services would harm the agency's interest in effectively enforcing APHIS-administered statutes. In this case, release of investigative information could harm the integrity of the agency's investigative and enforcement process, or provide individuals involved an opportunity to fabricate defenses, change the version of events, and alter and destroy evidence. For these reasons stated above, we have determined that these documents cannot be discretionarily released.

Further, please find enclosed 51 pages consisting of inspection reports written by Kimberly Duffiney and photographs related to the IR's accept, for the photographs associated with Brian Staples IR which are being withheld under (b)(7)(A). With regard to the needed repairs noted on Ringling Brothers March 12, 2009 IR, we have been advised by the program that there are no notes or e-mails pertaining to the March 12, 2009 IR. Therefore, we have no records responsive to the portion of your request.



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Please note that copies of inspection reports are now available on our Animal Care web site. To access all available APHIS inspection reports, please visit the APHIS homepage at <http://www.aphis.usda.gov> and click on Animal Welfare (a bullet item located in the light blue box on the left-hand portion of the screen under Browse by Subject). Then, click on 03/25/11 Animal Care has developed an expanded and improved (ACIS) Search Engine, located under the heading Latest News in Animal Welfare. Then, at the bottom of the next page, click on the link <http://acisearch.aphis.usda.gov/LPASearch/faces/Warning.jsp>. There, you will be able to access a searchable database.

You may appeal no records determination and/or our partial denial of this information. If you choose to appeal, your appeal must be in writing and must be received within 45 days of the date of this letter. Send to:

Administrator
Animal and Plant Health Inspection Service
Ag Box 3401
Washington, D.C. 20250-3401

If you should appeal, please refer to FOIA 11-11-587 in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination is warranted.

Because the cost to process your request is less than \$25.00, the fee has been waived. If you have any questions, please contact Ms. Deborah L. Leilich of my staff at (301) 734-3623.

Sincerely,



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

Enclosures