



September 15, 2011

United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Legislative and
Public Affairs

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

Mr. Arthur Kane

Sent Via Email

Dear Mr. Kane:

This is in response to your August 11, 2011, Freedom of Information Act (FOIA) request for copies of any photos, video or other recorded materials of inspections or raids on facilities owned by Jeff Fortin, license number 48-B-0225, including but not limited to the raid or inspection in late 2010 where 1,200 dogs had to be euthanized, dating between January 1, 2009, to January 7, 2010. Your request was received in this office on August 11, 2011, and assigned case number FOIA 11-748.

Please be advised, the information you have requested is currently involved in an ongoing investigation. However, agency employees conducted a thorough search of their files and located four pages of application for licenses and certificates which are responsive to your request and releasable at this time. Information has been withheld under FOIA Exemption 6, 5 U.S.C. §552 (b)(6). This exemption protects information from disclosure when its release would cause a clearly unwarranted invasion of personal privacy. In addition, we withheld the same information under FOIA Exemption 7(C), 5 U.S.C. §552 (b)(7)(C). This exemption protects from disclosure records or information collected for law enforcement purposes when its release could reasonably be expected to constitute an unwarranted invasion of personal privacy. The gross revenue of individual facilities has been withheld, third party names, and owner signatures have also been withheld pursuant to these exemptions.

We are withholding records that are part of an Open Investigative Enforcement Services (IES) cases, KS11033-AC, 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.

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 these cases, 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. If you wish, you may submit a request for IES cases KS11033-AC at a later date.

Mr. Arthur Kane
FOIA 11-748

2

Please note that copies of inspection reports are now available on our Animal Welfare web site. To access all available APHIS inspection reports, please visit the APHIS homepage at <http://www.aphis.usda.gov> and click on FOIA Reading Room (a bullet item located in the light blue box on the right-hand portion of the screen). Then, click on APHIS eFOIA Reading Room, then about halfway down that page, click on Animal Welfare, then click on Search Active Licensees, Registered Facilities, Annual Reports, and Inspection Reports, a bullet item located under an Animal Welfare heading. There, you will be able to access a searchable database.

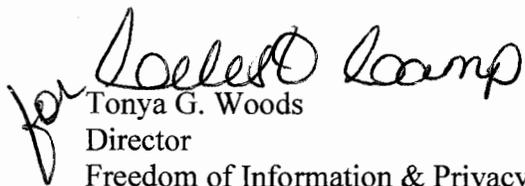
You may appeal our partial denial determination. If you choose to appeal, your appeal must be in writing and must be received within 45 days of the date of this letter to:

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

Please refer to FOIA 11-748 in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, please provide specific reasons why you believe modification of the determination is warranted.

Because the cost to process your request is less than \$25.00, all fees have been waived. Should you have questions, please contact Sophie Lau-Lopez of this staff at (301) 734-5360.

Sincerely,


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

Enclosures