



IN REPLY REFER TO:
DOI-FWS-2020-000543

United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345



September 22, 2022

Mara Shlackman
Law Offices of Mara Shlackman, P.L.
757 Southeast 17th Street, #309
Fort Lauderdale, Florida 33316

Dear Ms. Shlackman:

This is in response to your Freedom of Information Act (FOIA) request, dated January 1, 2020, and assigned tracking number DOI-FWS-2020-000543 (legacy number FWS-2020-00401).

You requested following:

All documents relating to Rivergrass Village, Bellmar Village, Longwater Village, and Hyde Park Village, all of which are proposed development projects in Collier County, Florida.

Response

We are writing to respond to your request. We previously responded to your request on July 7, 2022. For this final response, we processed fifty-four (54) pages and our release determination is as follows: fourteen (14) pages release in full; nineteen (19) pages released in part; and twenty-one (21) pages withheld in full. The pages withheld in full or in part are being withheld under FOIA Exemption 5 which allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party ... in litigation with the agency.” [5 U.S.C. § 552\(b\)\(5\)](#). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges. We are withholding nineteen (19) pages in part and twenty-one (21) pages in full under Exemption 5 because they qualify to be withheld both because they meet the Exemption 5 threshold of being inter-agency or intra-agency and fall under the following privilege:

Deliberative Process Privilege

The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fish bowl. A number of policy purposes have been attributed to the deliberative process privilege, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting against confusing the issues and misleading the public.

The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.

The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would expose the agency's decision-making process in such a way as to discourage candid discussion within the agency and, thereby, undermine its ability to perform its mandated functions.

The deliberative process privilege does not apply to records created 25 years or more before the date on which the records were requested.

Stacey Cummins, FWS FOIA Coordinator is responsible for this partial denial. Vicki Mott, Attorney-Advisor in the Office of the Solicitor was consulted.

Mediation/Dispute Resolution

If after contacting us as described below, you need further information or assistance with your request, you may wish to seek dispute resolution services from the Department's FOIA Public Liaison, Natasha Alcantara by email at doifoiapublicliaison@sol.doi.gov.

If you need further information or assistance after contacting the Department's FOIA Public Liaison, you may wish to seek dispute resolution services from the Office of Government Information Services (OGIS). The 2007 FOIA amendments created the OGIS to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://www.archives.gov/ogis>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

Appeal Rights

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays

from the date of this final response. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe this response is in error. You must also include with your appeal copies of all correspondence between you and FWS concerning your FOIA request, including your original FOIA request and this response. Failure to include with your appeal all correspondence between you and FWS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240
Attn: FOIA/Privacy Act Appeals Office
Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This is our final response and closes your request DOI-FWS-2020-000543. If you have any questions about our response to your request, you may contact me by phone at 303-236-4473 or by email at stacey_cummins@fws.gov.

Sincerely,

Stacey Cummins
FWS FOIA Coordinator