

# ATTACHMENT 3

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08/16/2023

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street, S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

RE: ICE FOIA Case Number 2023-ICFO-28240

Dear Office of the Principle Legal Advisor:

This letter is a formal appeal to the electronic records produced by the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement office, on or around 08/10/2023.

Within the twenty-five (25) pages of responsive documents, all names of Attorneys representing "Oak Hill Residential Care" aka "Affordable Senior Housing Foundation" have been redacted. Each redaction is give the same reason, (b)(6), (b)(7)(C). I believe the names of the Attorneys representing the organization are being improperly withheld from the public.

*1. The Attorneys were acting in a professional capacity:*

Attorneys for Affordable Senior Housing Foundation, aka Oak Hill Residential Care, were acting in their professional capacities as representatives of the organization, not in a personal capacity. As such, their names are not private but are, instead, associated with the actions of the organization.

These lawyers, like other third party professionals who interact with ICE/DHS, are officers of the court and their actions within these roles are generally a matter of public record. FOIA Exemption 6 asks the agency to protect the personal, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The attorney has a limited privacy interest in their names when acting as representatives Affordable Senior Housing Foundation in official matters, as opposed to acting in a personal capacity.

*2. Lack of Personal Privacy Harm:*

The redaction of names under FOIA is generally to prevent an unwarranted invasion of personal privacy. Disclosing the names of attorneys acting in their professional capacity does not constitute such an invasion.

It is clear that these attorneys were acting as agents of the organization, and their professional actions are separate from their personal lives. Therefore, there is no invasion of personal privacy.

*3. No Security Risk*

Disclosing the names of attorneys does not pose a security risk to the government's operations or the attorneys involved. The attorney[s], in this case, is not an undercover agent nor involved in any sensitive national security nor government directed actions. The release of the attorney's name does not warrant redaction do to possible national security risks.

*4. Precedence and Consistency:*

There is a long-standing precedent that legal proceedings, including the names of the attorneys involved, are a matter of public record. In civil and all other types of litigation, there are factors that determine whether a party can litigate anonymously. Much like the FOIA privacy standards, if the parties' private interests exceed the public's, the plaintiff may proceed anonymously. Except in rare cases of pro se parties that happen to attorneys, the names of the attorney's representing anonymous clients is a matter of public record and cannot be redacted under the claim of damages to that attorney's private interests.

Redacting the names of attorneys in inconsistent with this principle.

*5. Public Interest Outweighs Right to Privacy:*

Disclosing the name of Attorney's representing those organizations involved in governmental investigations is necessary, as it verifies that there was/is no unequal treatments of those being investigated due to the relationship (past or present) between the attorney's representing, and the agency investigating.

It is widely known that government agents, employees, and attorneys move from public to the private sector. This "revolving-door" sees attorney's go from defending government agencies, to defending those being investigated by those government agencies. Most organizations seek attorney's with first-hand knowledge on how the investigator will proceed. Finding an attorney who worked for the investigating agency is highly desirable.

The name[s] of the attorney[s] must be provided so that the public may verify that the government offered no preferential treatment to the organization due to past relationships between the attorney the investigating agency.

Respectfully Submitted,

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John E. Gamble III  
August 17, 2023