

Exhibit 10

the
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reporting

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November 20, 2017

Via U.S. mail and email

Re: Freedom of Information Act Constructive Denial Letter No. CBP-2017-041208

To Whom It May Concern:

The Center for Investigative Reporting (“CIR”) hereby writes on behalf of the requester, Mr. Andrew Becker pursuant to the Freedom of Information Act, 5 U.S.C. § 552, given the failure of the United States Department of Homeland Security (“DHS”), Customs of Border Protection (“CBP”) to respond to Mr. Becker’s request for land acquisition documents.

I. Factual Background

Since the presidential debates, there has been extensive reporting on the United States border because of increasing public concern over the government’s operations at the wall. *See, e.g., Andrew Becker, Trump’s wall is wrong path for immigration reform, analysts say*, REVEAL, Jan. 25, 2017, <https://www.revealnews.org/blog/trumps-wall-wrong-path-for-immigration-reform-analysts-say/>; Michael Corey and Andrew Becker, *Senate Democrats answer questions, raise concerns with Trump’s wall*, REVEAL, April 19, 2017 <https://www.revealnews.org/blog/senate-democrats-answer-questions-raise-concerns-with-trumps-wall/>. More specifically, recent media reports have discussed how federal dollars are being spent to purchase land at the border from private landowners. *See, e.g., Andrew Becker*

and David Rodriguez, *Feds hunt down mystery landowners in bid to build border wall*, REVEAL, June 21, 2017, <https://www.revealnews.org/article/feds-hunt-down-mystery-landowners-in-bid-to-build-border-wall/>.

II. Procedural History

On March 21, 2017 Mr. Becker submitted a FOIA request via email (hereinafter “the Request”). A true and correct copy of the Request is attached as Exhibit A. The Request sought records pertaining to land acquisition at the U.S. border and related real estate costs. More specifically, it requested:

1. The amount of money Customs and Border Protection and/or DHS has paid to private landowners in non-condemnation real estate transactions to acquire private property related to border fence construction, with a breakdown by individual recipient's name, location, amount paid, date paid, amount of acreage
2. The amount of money CBP and/or DHS has paid to the Department of the Interior in environmental mitigation fees/costs related to fence construction, with a breakdown by amount paid, date paid, reason for mitigation fee, and location related to mitigation fee.
3. The amount of money CBP and/or DHS has paid DOJ in litigation fees/costs related to border fence condemnation suits, with a breakdown by fiscal year, region/field office/US attorney's office, date paid, reason for payment. The amount of money paid to property owners for land condemned and taken through eminent domain, with a breakdown by individual recipient, acreage, location of land, date paid, amount paid. The number of pending condemnation lawsuits, with a breakdown by filing date, docket number, location, and potential real estate exposure.
4. The total expense to date for DOJ litigation fees/costs
5. The precise location, including parcel/tracts numbers, geolocation data and owners involving all acquisitions related to border-fence construction.
6. The total amount of real estate related costs associated with border fence and/wall construction to date, with a breakdown by type of expense, date of expense, funding source, place of performance.

See Request. The Request also sought a fee waiver, as CIR is a representative of the news media. It also sought expedited processing. *Id.*

By letter dated March 22, 2017, CBP sent a letter acknowledging the Request. A true and correct copy of that response is attached as Exhibit B. On May 23, 2017, CBP sent an email requesting a timeframe clarification. A true and correct copy of that response is attached as Exhibit C. The next day, on May 24, 2017, Mr. Becker emailed CBP offering a timeframe clarification. A true and correct copy of that response is attached as Exhibit D. On June 7, 2017, Mr. Becker received an email with a final disposition as to the request for a fee waiver and expedited processing and was told his case was closed because he did not provide a timeframe clarification. A true and correct copy of that response is attached as Exhibit E.

On June 9, 2017 Mr. Becker appealed the final disposition and that same day received an acknowledgement letter with tracking number CBP-AP-2017-064364. A true and correct copy of that response is attached as Exhibit F. On June 19, 2017, Mr. Becker received a determination from the appeals office remanding the request back to the FOIA division, and stating CBP should process the Request within 20 days, and if not Mr. Becker should be notified. A true and correct copy of that response is attached as Exhibit G. The next day, on June 20, 2017, Mr. Becker received a letter from CBP apologizing for the miscommunication and stating there was no record of correspondence pertaining to Mr. Becker's timeframe clarification. A true and correct copy of the communication is attached as Exhibit H. To date, Mr. Becker has not received a determination or a notification from CBP, as instructed by the appeals division.

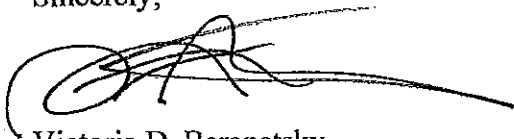
Subsequent to filing of the Request, the Department of Army ("DOA") notified Reveal at The Center for Investigative Reporting that CBP likely holds at least one document responsive to the Request. On May 26, 2017, CIR sent a FOIA request to DOA seeking documents similar to those sought for in the Request. On November 2, 2017, DOA agents released responsive documents containing the amount of money paid to private landowners to acquire border fence property. A true and correct copy of some of those records are attached as Exhibit I. In phone conversations, DOA represented that it prepared the documents for CBP to likely update a more complete list held by CBP. Therefore, CBP likely holds at least one document responsive to the Request that contains the amount of money paid to private landowners to acquire border fence property. *See Request.*

As I'm sure you are aware, under 5 U.S.C. § 552(a)(6)(A) a FOIA request is considered constructively denied after twenty business days at which point the request is subject to litigation. Here, the Request was made over nine months ago and CIR has taken all reasonable steps to contact CBP. *See Exhibits D and F.* Given the grave public interest in this issue, we look forward to an immediate response and disclosure. If we do not receive a response within one week of this letter, we anticipate to file litigation.

III. Conclusion

In conclusion, CBP should release all relevant information immediately. Should CBP need clarification as to any aspect of the Request, it may reach me at vbaranetsky@revealnews.org or (510) 982-2890.

Sincerely,



Victoria D. Baranetsky
General Counsel
The Center for Investigative Reporting

cc: Andrew Becker