



COMMONWEALTH of VIRGINIA

Department of Veterans Services

John L. Newby II
Commissioner

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November 3, 2014

Maria J.K. Everett, Executive Director and Senior Attorney
Alan Gernhardt, Staff Attorney
Virginia Freedom of Information Advisory Council
201 North 9th Street
Richmond, Virginia 23219

Dear Ms. Everett and Mr. Gernhardt:

At its meeting on November 5, 2014, the Records Subcommittee of the Virginia Freedom of Information Advisory Council will consider one exemption related to the Department of Veterans Services (DVS) and one related to the Veterans Services Foundation (VSF). At its meeting the same day, the Meetings Subcommittee will consider one VSF-related exemption.

Please find attached two short papers reflecting the position of the DVS and the VSF on the exemptions. A representative of DVS and VSF will attend both meetings to provide any additional information needed by the Subcommittee members.

If there are any questions, please contact the VSF Executive Director, Mr. Jack Hilgers, at 804-382-3715 or Jack.Hilgers@dvs.virginia.gov, or the DVS Director of Policy & Planning, Mr. Steven Combs, at 804-786-0294 or Steven.Combs@dvs.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Newby II".

John L. Newby II

Cc: Richard A. Schollmann
Chairman, Veterans Services Foundation Board of Trustees

Two Enclosures

Department of Veterans Services (DVS) and Veterans Services Foundation (VSF)

input for

Virginia Freedom of Information Advisory Council – Meetings Subcommittee– 11/5/2014

Veterans Services Foundation (VSF) Exemption

2.2-3711 (43). Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

Rationale: This section was part of 2009 HB 2639 that originally contained the words in subdivision 29 of §2.2-3705.7 *Records maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.*

The House General Laws subcommittee recommended deleting the words in bold and the full committee concurred. That phrase was the main purpose behind including subdivision 43 in §2.2-3711 as evidenced by the VSF Board not exercising this exemption since 2009 because VSF could not assure donors of anonymity.

The deletion of the phrase from the 2009 legislation has placed a severe limit on VSF attracting 1) anonymous donors, and 2) donors who desire to name VSF or a specific veterans program as a beneficiary in their will or trust and keep that bequest confidential.

Based on actual VSF experience regarding donor anonymity, a legislative proposal will be submitted for action by the 2015 General Assembly to add the words originally proposed in 2009 by adding the words in italics as follows to §2.2-3705.7.29 "... and terms of the pledge or donation or the identity of the donor *unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation.*" It is consistent with the fundraising confidentiality contained in §2.2-3705.4.7.

VSF Position: Do not delete this exemption from the Code. Amend the *Code of Virginia* as noted above.