

July 27 2017

Alan Gernhart, Esq.  
Senior Attorney  
Virginia Freedom of Information Advisory Council  
900 E. Main Street  
Richmond, Virginia 23219

Re: Review of FOIA Exemptions

Dear Mr. Gernhart:

Thank you for your correspondence dated July 17, 2017 regarding proprietary exemptions and trade secrets. We appreciate the opportunity to comment.

The Virginia Resources Authority (VRA) does have concern regarding change to its exemption for proprietary records and trade secrets.

As you may know, VRA is an independent political subdivision of the Commonwealth. Section 62.1-198 of the Virginia Code outlines VRA's purpose as follows:

to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, oyster restoration projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties including properties contaminated by drywall, the design and construction of roads, public parking garages and other facilities for public transportation by commuter rail, site acquisition and site development work for the benefit of economic development projects, technology, construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, infrastructure for broadband services, recovered gas energy facilities, federal facilities or former federal facilities, and renewable energy projects

While VRA is not a state agency and receives no direct state appropriations, for organizational purposes, it is aligned with the Secretary of Finance and has a relationship with almost each secretariat where there may be public and private funding information. VRA does work with and receive information from private entities that include proprietary and trade secret information not otherwise available to the public. For example, VRA has an outstanding loan in its land conservation portfolio. The loan documents provide that we receive copies of financial statements of entities related to the borrower (but that have no outstanding loan with VRA). These

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financial statements can be very helpful in monitoring the loan. If, however, this information were required to be made public, it is unlikely the borrower would have ever agreed to the requirement in loan documents to provide it.

It does appear that the draft attached with your correspondence (LD18100099D) would preserve the confidentiality for VRA to work effectively. However, VRA would reiterate that changes to the proposed draft could present unforeseen consequences and the comments herein are specific to the aforementioned draft. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean Bass". The signature is fluid and cursive, with the first name "Jean" and last name "Bass" clearly distinguishable.

Jean Bass  
Deputy Executive Director