



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 22, 1991

Mr. Daniel B. Childs
1911 Brighton Dam Road
Brookeville, MD 20833

Re: Freedom of Information Act - Appeal
(Your December 26, 1990, Letter)

Dear Mr. Childs:

We received your Freedom of Information Act (FOIA) appeal on December 28, 1990. On December 18, 1990, the National Credit Union Administration (NCUA) denied your request for the most recent examination report for NASA Federal Credit Union. We have determined that the records meeting your request should be withheld pursuant to FOIA.

ANALYSIS

Exemption 8 of FOIA (5 U.S.C. §522(b)(8)) exempts information:

Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

Section 792.3(a)(8) of NCUA's Rules and Regulations (12 C.F.R. §792.3(a)(8)) implements exemption 8 and adds the following:

This includes all information, whether in formal or informal report form, the disclosure of which would harm the financial security of credit unions or would interfere with the relationship between NCUA and credit unions.

FOIA VOL 1V, G-1 Freedom of Information

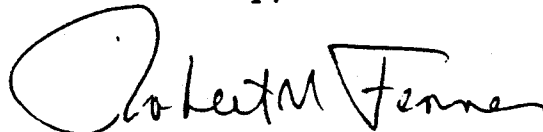
Mr. Daniel B. Childs

January 22, 1991
Page 2

The courts have discerned two major purposes for exemption 8 from its legislative history: 1) to protect the security of financial institutions by withholding from the public reports that contain frank evaluations of a bank's stability; and 2) to promote cooperation and communication between financial institution employees and examiners. See Atkinson v. FDIC, 1 GDS ¶80,034, at 80,102 (D.D.C. 1980). Either purpose is sufficient reason to withhold a report. Courts do not require agencies to segregate and disclose portions of documents unrelated to the financial condition of the institution. An entire report relating to the financial condition of the institution may be withheld. See Atkinson, 1 GDS at 80,103. We believe both purposes of exemption 8 are met. Therefore, the examination report responsive to your request is withheld pursuant to exemption 8.

Pursuant to 5 U.S.C. §552(a)(4)(B), you may seek judicial review of this appeal by filing suit to enjoin NCUA from withholding the documents you requested and to order production of such documents. Such a suit may be filed in United States District Court in the district where you reside or in the District of Columbia.

Sincerely,



Robert M. Fenner
General Counsel

GC/LH:sg
SSIC 3212
90-1232