

Virginia Freedom of Information Act
Code of Virginia, Section 2.2-3700 et seq.

Under the Virginia Freedom of Information Act (VFOIA), public bodies are required to comply with the policies and procedures outlined in the law. The term “public body” is defined in the law to mean all state and local governmental bodies and “other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds.” For purposes of having Bay Aging operate in a manner open to public observation and scrutiny, it is the policy of the Bay Agency Board of Directors that the Board and the agency operate in conformity with the policies and procedures set out in VFOIA.

The Rights of VFOIA Requesters and the Responsibilities of Bay Aging

The VFOIA gives citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees. A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific statutory exemption applies.

The purpose of VFOIA is to promote an increased awareness by the public of governmental activities. In furtherance of this goal, VFOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld be interpreted narrowly.

Your Rights to Bay Aging Records

- You have the right to request that you be allowed to inspect or receive copies of Bay Aging records, or both.

- You have the right to request that any charges for the requested records be estimated in advance.

- Under VFOIA, if you believe that any of your rights regarding access to public records under the law have been violated, you may file a petition in district or circuit court to compel compliance with the law. (This statement does not create, enlarge, or restrict rights under law.)

Procedures for Making a Request for Records from Bay Aging

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. VFOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA, but to facilitate our ability to respond to your request, we ask that you put your request in writing through either email, postal mail, or in person on a form provided to you for that purpose, of which you will be given a copy upon request. This allows you to have a record of your request. It also gives Bay Aging a clear statement of what records you are requesting, so that there is no chance for a misunderstanding of a verbal request.

- Under the VFOIA, your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that Bay Aging can identify and locate the records that you are seeking.

- Your request must ask for existing records or documents. The VFOIA gives you a right to inspect or copy public records. This does not apply to a situation where you are asking general questions about the work of Bay Aging. Nor does it require the creation of a record that does not exist.
- You may choose to receive electronic records in any format used by Bay Aging in the regular course of business. For example, if you are requesting records maintained in an Excel database, you may elect to receive a printed copy of those records, or to receive the records electronically via e-mail or on a computer disk.
- Your request must be addressed to the President or the Vice-President For Administration, Bay Aging, 5306 Old Virginia Street, Urbanna, Virginia 23175, or by email to either of these positions as listed on the Bay Aging website at www.bayaging.org, or by Fax at (804) 758-5773, or phone at (804) 758-2386. You may also use these contacts if you are uncertain about what records you wish to request, or about whether Bay Aging has such records. Making a VFOIA request is not an adversarial process, but Bay Aging staff may need to discuss your request with you to ensure that they understand what records you are seeking and how they can best meet your request. Your cooperation with staff members in their efforts to clarify the types of records you are seeking, or their attempt to reach a reasonable agreement with you about what records can be provided in what format, would greatly assist their ability to provide the records to you in a timely and complete manner. This is especially important where a response involves a large number of records.
- As an additional resource to you regarding the requirements under VFOIA, the Virginia Freedom of Information Advisory Council is available to answer any questions you may have by e-mail at foiacouncil@leg.state.va.us, or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.
- As provided under VFOIA, Bay Aging will respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays observed by Bay Aging, or other days on which the office is officially closed. Consistent with VFOIA, one of the following responses will be made to your request within the five-day time period:
 - 1) You will be provided with the records that you have requested in their entirety.
 - 2) You will be sent a response in writing at the address you provide letting you know that all or some of the records that you have requested are deemed exempt from disclosure consistent with VFOIA with a specification of the section under VFOIA that allows for the exemption. Where only a portion of a record you have requested is being withheld based on an exemption, you will be provided with the remainder of the record with the portion that may be withheld redacted (blacked out).
 - 3) You will be informed in writing at the address you provide Bay Aging that the requested records do not exist or cannot be found. However, if Bay Aging knows that another organization has the requested records, you will be given the contact information for that organization in the response to you.
 - 4) If it is practically impossible for Bay Aging to respond to your request within the five-day period, you will be provided with a written explanation as to why it is not possible to respond to your request within that time period. Under VFOIA, in such situation a public body is allowed 7

additional working days to respond to your request, making it a total of 12 working days for the response. In any such case, efforts will be made to reach an agreement with you on your request that allows production of the records as soon as practicable within the 12-day timeframe.

Costs of Producing Records in Response to a Request

- Under the VFOIA and Bay Aging policy and procedures, the costs of responding to information requests can be charged to the requester. This would include costs such as staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. General overhead costs will not be included in any charges. You may request an estimate of costs in advance of any charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If the costs to produce the records are estimated to exceed \$200, you will be required to pay a deposit not to exceed the amount of the estimate of the costs before Bay Aging proceeds with your request. The 5-day response period does not include the time between when we ask for a deposit and when you respond.
- If you owe Bay Aging money from a previous FOIA request that has remained unpaid, Bay Aging may require payment of the past-due bill before it will respond to your new VFOIA request.

Routinely Enforced Exemptions

Under VFOIA, a public body is allowed to withhold certain records from public disclosure. In conformity with this law, Bay Aging will withhold records falling under the following exemption areas:

- Personnel records (§ 2.2-3705.1 (1) of VFOIA)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Records recorded in or compiled exclusively for use in closed meetings (§ 2.2-3705.1 (5))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease (§ 2.2-3705.1 (8))
- Personal information, as defined in § 2.2-3801 of the Code of Virginia, furnished to Bay Aging (§ 2.2-3705.1 (10))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Those portions of records that contain account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or Bay Aging (§ 2.2-3705.1 (13)).

VFOIA Request Form

(Date)

President or Vice-President for Administration
Bay Aging
5306 Old Virginia Street
Urbanna, Virginia 23175
FAX: (804) 758-5773

RE: Request for records pursuant to the Virginia Freedom of Information Act

Dear President or Vice-President for Administration:

Pursuant to the Virginia Freedom of Information Act (§ 2.2 -3700 et seq.), I am requesting copies of any records related to _____. I would also like to request that all charges for supplying the records I have requested be estimated in advance. I understand that if you determine that the charges are likely to exceed \$200, I am obliged to pay that amount before you continue to process my request.

If you have any questions or require additional information in order to process my request, please do not hesitate to contact me at _____ (telephone number).

Thank you in advance for your cooperation in this matter.

Sincerely,

(Signature)

(Print Your Name)