

**RESOLUTION TO RELEASE EMAILS EXEMPTED FROM
FOIA REQUEST T000177-101422**

WHEREAS, Warrenton, VA (hereinafter “The Town”) is a municipal corporation located within the County of Fauquier,

WHEREAS on October 14, 2022, the Town received request number T000177-101422 from Citizens for Fauquier County, a non-stock membership organization located in Warrenton, VA (“CFFC”), seeking under the Virginia Freedom of Information Act, Va. Code Ann. §§ 2.2-3700, *et. seq.* (“VFOIA”) among other records within the meaning of VFOIA, documents and communications with the town mayor or the town managers pertaining to a proposed Amazon Development (“CFFC Request.”)

WHEREAS in response to the CFFC Request, the Town exempted 3,142 emails purportedly as follows: 2,633 emails involving the mayor or the town manager as chief executive officer pursuant to Virginia Code §§ 2.2-3705.7(2), 314 emails pursuant to Virginia Code §§ 2.2-3705.1 (2) (“Attorney-Client Privileged), and 195 emails pursuant Virginia Code §§2.2-3705.1(1) (“Personnel Exemption”); hereinafter “Confidential Documents”;

WHEREAS the Town asserted that the VFOIA exemption covered the “working papers and correspondence” of the mayor *and* the town manager as chief executive officer of the Town (the “CEO Exemption”), including emails where the Mayor and the Town Manager were merely on the distribution list and/or may have simply received a copy;

WHEREAS the Town’s interpretation of the CEO Exemption contravenes the plain language of Virginia Code §§ 2.2-3705.7(2), which provides that the CEO Exemption shall apply to the mayor *or* the town manager (emphasis added);

WHEREAS CFFC appealed the Town’s interpretation of the CEO Exemption to the Fauquier Circuit Court;

WHEREAS the Fauquier Circuit Court sustained the Town's interpretation of the exemption, denying CFFC any relief;

WHEREAS on appeal by CFFC, a three-judge panel of the Virginia Court of Appeals unanimously reversed the lower court's ruling;

WHEREAS pursuant to the appellate court ruling, the Town currently applies the CEO Exemption to "working papers and correspondence" of only the town manager;

WHEREAS the non-release of the Confidential Documents, including emails involving the town manager, has generated an extensive and negative response by Town citizens, reinforcing their views that the Town operates in secret, contrary to the basic principles of Virginia's Freedom of Information Act;

WHEREAS Virginia Code 2.2-3705.7 allows for the disclosure of public records at the discretion of the custodian except where such disclosure is otherwise prohibited by law;

WHEREAS The Virginia Freedom of Information Act expressly states at VA. Code 2.2-3700 (B), "the provisions of this chapter shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government."

WHEREAS an election was held on November 5, 2024, in which five members of Council were elected who, in the name of transparency, each pledged to remove wherever practicable any assertion of privilege over which the Council has discretion;

WHEREAS those new members were sworn into office on January 3, 2025, for a four-year term, and the Council desires now to act in accordance with the spirit and direction of the Virginia Freedom of Information Act.

NOW THEREFORE BE IT RESOLVED that the Warrenton Council on this 14th Day of January 2025 and in conformation with the Appellate Court decision as attached hereto and made a part hereof, orders the clerk to do the following:

TO RELEASE TO THE PUBLIC ALL EMAILS OR OTHER COMMUNICATIONS FOR WHICH A CEO OR MAYOR EXEMPTION WAS PREVIOUSLY CLAIMED IN RESPONSE TO FOIA REQUEST T000177-101422 MADE BY THE CITIZENS FOR FAUQUIER COUNTY, EXCEPT THAT RELEASE SHALL BE WITHHELD WHERE DISCLOSURE IS OTHERWISE PROHIBITED BY LAW (“LEGALLY EXEMPT DOCUMENTS”). THE CLERK SHALL ESTABLISH A FREE-OF-CHARGE ELECTRONIC ACCESS POINT ON THE TOWN’S WEBSITE ONTO WHICH HE SHALL LOAD THESE DOCUMENTS, AND SHALL ACT ON THESE TASKS WITH DISPATCH. THE CLERK SHALL REPORT TO THE COUNCIL WITHIN TEN DAYS OF THE DATE HEREOF ON HIS PROGRESS IN THIS REGARD AND SHALL CALL OUT SPECIFICALLY THE LEGALLY EXEMPT DOCUMENTS, DETERMINATION OF WHICH SHALL BE MADE BY THE TOWN ATTORNEY.