

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

DAILY NEWS PUBLISHING
COMPANY, INC.,

Plaintiff,

v.

WAYNE L. BIGGS, JR., in his capacity
as the Acting Chief Executive Officer of the U.S.
Virgin Islands Economic Development
Authority and the GOVERNMENT OF THE
VIRGIN ISLANDS OF THE UNITED STATES,
Defendants.

CASE NO. ST-16-CV-209

ACTION FOR MANDATORY
INJUNCTION OR, IN THE
ALTERNATIVE, FOR A WRIT OF
MANDAMUS

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CARTY, RENÉE GUMBS, Judge

MEMORANDUM OPINION
(Filed: November 30, 2017)

THIS MATTER is before the Court on Plaintiff Daily News Publishing Company, Inc.'s ("Daily News") "Motion for Summary Judgment and Incorporated Memorandum of Law" filed on June 5, 2017. The Defendant, the Government of the Virgin Islands of the United States ("Government") filed a response, "Defendant Government of the Virgin Islands' Opposition to

Plaintiff's Motion for Summary Judgment & Incorporated Memorandum of Law," on July 7, 2017. Daily News replied by filing "Reply to Defendants' Opposition to Plaintiff's Motion for Summary Judgment and Incorporated Memorandum of Law" on August 7, 2017. Defendant Wayne L. Biggs, Jr., Acting Chief Executor Officer for the Economic Development Authority, did not respond to the Daily News' motion for summary judgment. On October 30, 2017, this Court held a motions' hearing, addressing all pending motions in which all parties were present and given an opportunity to present their arguments and opposition to the Court. For the reasons on the record and set forth in this memorandum, the Court will grant Plaintiff Daily News' Motion for Summary Judgment.

I. PROCEDURAL AND CASE HISTORY

This case involves the Virgin Islands Economic Development Authority ("Authority"), an organization established in February 2001 and used to aid the government in the performance of its duties to develop the economy of the Virgin Islands.¹ As part of its creation, the Authority serves as an umbrella to unify five entities: (1) Economic Development Commission, (2) Enterprise Zone Program, (3) Economic Development Bank², (4) Industrial Park Development Corporation, and (5) Small Business Development Agency. In the present case, the Daily News moves for summary judgment and requests this Court to order a mandatory injunction, or in the alternative issue a writ of mandamus. In doing so, Daily News looks towards the Court to instruct Defendants to release information held by the Economic Development Authority, more specifically the Economic Development Bank.³ The Economic Development Bank and the Small

¹ Tit. 29 V.I.C §1101(a).

² 29 V.I.C. §901, *amended by* Act 7636, §1. "The Economic Development Bank for the United States Virgin Islands" was formerly known as "The Government Development Bank for the United States Virgin Islands," until its substitution in 2000.

³ Pl.'s Mot. Summ. J. 2. Executive Editor of the Daily News Gerry Yandel made an initial request via letter on behalf of Daily News for information on May 14, 2015. He directed his request to Acting Chief Executive

Business Development Agency administer loan programs to provide monetary assistance for Virgin Islands businesses. Within their request, initially made on May 14, 2015, the Daily News demanded that certain information pertaining to delinquent loans administered by the Authority be disclosed.⁴ Daily News premises their request upon the Public Records Act codified under the Virgin Islands Code, Title 3, Section 881.⁵ The Public Records Act provides in part, the opportunity and right for citizens of the territory to examine all “public records;”⁶ and explicitly that the news media may publish such records unless otherwise expressly limited within the code.⁷

On May 20, 2015, the Authority responded by declining to disclose the requested information, in which the Daily News sent an amended, abbreviated request on May 22, 2015.⁸ It was after this subsequent request that the Authority sought the guidance of the Office of the Attorney General on the matter. In light of the Attorney General’s Opinion issued on October 21, 2015, the Authority rejected Daily News’ amended request as well. The Attorney General, in his opinion, stated that the information requested by the Daily News would cause a violation of the

Officer and Defendant Wayne L. Biggs from the Economic Development Authority (“Authority”). In this request, the Daily News asked the Authority to disclose information regarding a current list of loans administered.

⁴ Pl.’s Ex. 2. In their initial request, the Daily News petitioned the Authority for information pertaining to delinquent loans, to include “but not limited to: a list of delinquent loans; the status(es), condition(s) or circumstance(s) under which loans were classified as delinquent; the names of the loan recipients, and in any cases in which the loan was issued to a business or organization, the name(s) of the individuals acting on behalf of the business or organization; the amount borrowed; the amount repaid; the amount uncollected; the status of collection efforts; the status of delinquencies.

⁵ Pl.’s Mot. Summ. J. 1. Daily News request followed an audit conducted in 2013 by the Office of the V.I. Inspector General (“Inspector General”), of selected loan programs administered by the Economic Development Authority. Within the Inspector General’s Audit, a number of determinations were made speaking to the process and management of various loans administered by the Authority.

⁶ 3 V.I.C. §881(a) (“Public records” includes all records and documents of or belonging to this Territory or any branch of government in such Territory or any department, board, council or committee of any branch of government.”)

⁷ 3 V.I.C. §881(b).

⁸ Pl.’s Ex. 4. Authority denied Daily News’ initial request, stating that it was unreasonable and overly burdensome. As a result, Daily News submitted an amended request in which they asked for the Authority to supply information on each delinquent loan including the name of the borrower, the date of the loan, the status of the loan, and the purpose of the loan.

Public Records Act should it be released.⁹ Specifically, the information requested fell under two of the enumerated exceptions to the Public Records Act in accordance to section 881(g); that the information constituted a trade secret and further would cause a competitive advantage.¹⁰ On April 25, 2016, the Daily News filed their First Amended Complaint. In response to the Daily News' complaint, the Government filed an answer, and Wayne L. Biggs, Jr. filed an amended answer on May 17, 2016. This matter is currently before the Court on the Daily News' motion for summary judgment.

In their motions the parties present a number of arguments for and against the disclosure of the requested information.¹¹ The Daily News asserts that the information requested falls squarely under the Public Records Act, which aside from enumerated limitations, provides citizens as well as the media, the right to examine all public records. In response to this assertion the Government raises the contentions that not only is the Authority not a government agency, even if it were to be determined as such, the Daily News is not entitled to disclosure since the information requested falls under the enumerated exceptions to the Public Records Act. The Government further asserts that they should prevail based on the foundational principles of statutory construction as well as the Banking Law. Upon review of these arguments, the Court will grant summary judgment.

⁹ *Bryan v. Fawkes*, 61 V.I. 416, 458 (V.I. 2014) (“[T]he opinion of the Virgin Islands Attorney General — an officer of the Executive Branch — as to how Virgin Islands law should be interpreted is in absolutely no way binding on this Court or the Superior Court, since statutory interpretation is unquestionably a judicial power of which this Court is the final arbiter”) (citing See 4 V.I.C. § 21) (other citations omitted).

¹⁰ 3 V.I.C. §881(g) (“The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release information: . . . (3) Trade secrets which are recognized and protected as such by law. . . (6) Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.”).

¹¹ Although the parties use the terms “Open Records Act,” “Freedom of Information Act,” and “Public Records Act” interchangeably, the Court recognizes that all arguments were made in accordance to Tit. 3 V.I.C. §881, regardless of label. As such, the Court will address the arguments accordingly, and reference to the statute in question as the “Public Records Act.”

II. SUMMARY JUDGMENT STANDARD

Under Virgin Islands Rule of Civil Procedure 56(a), summary judgment shall be granted if the movant shows that there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law.¹² Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, electronically stored information, stipulations, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law."¹³ When assessing these materials, the Court must draw all reasonable inferences in favor of the non-moving party.¹⁴ Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.¹⁵

To establish a genuine issue of material fact, the non-moving party must introduce evidence beyond the mere pleadings to create an issue of material fact on an essential element of that party's case, and on which that party will bear the burden of proof at trial.¹⁶ Due to summary judgment being a "drastic remedy, it should be granted only when 'the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material

¹² V. I. R. Civ. P. 56(a) (2017).

¹³ *Manbodh v. Hess Oil V.I. Corp. et al.* (In re Manbodh Asbestos Litigation Series), 47 V.I. 215 (V.I. Super. Ct. Nov. 23, 2005). Case relies on Federal Rule of Civil Procedure 56 which is substantially the same as the Virgin Islands Rules of Civil Procedure 56, as the Virgin Islands Rules of Civil Procedure were recently enacted.

¹⁴ *Walters v. Walters*, 60 V.I. 768, 794 (V.I. 2014).

¹⁵ *Martin v. Martin*, 54 V.I. 379, 387 (V.I. 2010) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). *Burd v. Antilles Yachting Services, Inc.*, 57 V.I. 354, 360 (V.I. 2012) (quoting *Anderson*, 477 U.S. at 254) (internal quotation marks omitted) ("A fact is material if it can affect the outcome of the case"); *Donastorg v. Daily News Publishing Co., Inc.*, 63 V.I. 196, 222 (V.I. Super. Ct. Aug. 19, 2015) (citing *Anderson*, 477 U.S. at 248) (Such a material fact comes into dispute when "the evidence is such that a reasonable jury could find in favor of the non-moving party on the disputed fact.").

¹⁶ *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

fact and that the movant is entitled to judgment as a matter of law.”¹⁷ Thus, once the non-moving party has presented more than a scintilla of evidence that may sway a jury, even if it amounts to less (in the evaluation of the court) than a preponderance, both parties should be granted an equal opportunity to present their facts to the jury.¹⁸

III. LEGAL DISCUSSION

a. Daily News is entitled to summary judgment as there is no genuine issue of material fact.

A review of the record shows that there is no genuine issue of material fact in the matter at hand. It is undisputed that a request was made twice by the Daily News for the release of information. The Daily News made both requests via letter which were received by the Authority.¹⁹ It is also undisputed that the Authority rejected each of the requests made. Upon review of the arguments made, the Court finds that the issues before the Court are not based in fact but rather law, as they are matters premised on principles of statutory interpretation and construction. Lacking a finding of a genuine issue of material fact in dispute the Court turns to the second prong of the summary judgment standard that must be satisfied by Daily News; that the moving party is entitled to judgment as a matter of law.

b. Daily News is entitled to judgment as a matter of law under Title 3, Section 881 of the Virgin Islands Code, which codifies the Public Records Act, and supports the disclosure of the information requested.

Daily News requests relief in the form of a mandatory injunction or, in the alternative, a writ of mandamus. This Court notes that generally in order to secure this type of relief a party must meet certain requirements.²⁰ As such, this would require the Court to go into an analysis as to

¹⁷ *Walters*, 60 V.I. at 775 (quoting *United Corp. v. Tutu Park, Ltd.*, 55 V.I. 702, 707 (V.I. 2011)).

¹⁸ *United Corp. v. Tutu Park, Ltd.*, 55 V.I. 702, 707 (V.I. 2011).

¹⁹ Pl.'s Mot. Summ. J., Exs. 2 & 4.

²⁰ *In re Morton*, 56 V.I. 313, 319 (V.I. 2012) (Generally “to obtain a writ of mandamus, a petitioner must establish that his right to the writ is clear and indisputable and that he has no other adequate means to attain the

whether the requesting party has successfully met such. However, this Court is not required to do so. In accordance with the Public Records Act, it is provided that “[t]he provisions of this chapter and all rights of citizens under this chapter may be enforced by mandamus or injunction whether or not any other remedy is also available.”²¹ As such the Court will address the motion on its merits.

i. The Authority is part of the Virgin Islands Government as a government entity and is therefore subject to the Public Records Act.

The Government contends that they are unable to disclose the information requested by Daily News as the Authority is not a government entity. They layer this contention with their subsequent argument that the Public Records Act does not apply to the Authority. This argument is premised on Title 29, Section 1101(b) of the Virgin Islands Code, which provides in part that “the property of the Authority shall be deemed to be those of the Authority and not to be those of the Government, or any office bureau, department, agency, commission, municipality, branch, agent, officer or employee thereof.” In light of this argument, the Government urges the Court to look at the construction of the Authority’s enabling statute as an avenue of support. Looking at said statute, it states, that “the Authority created is and shall be a semi-autonomous governmental instrumentality subject... to the general supervision and direction of the Governor, and as provided for herein, the control of its Governing Board.” This statute memorializes the Authority as a public corporation, and further provides that the Authority shall go by the name “‘Virgin Islands Economic Development Authority’... which shall be governed by a board consisting of seven (7) persons appointed by the Governor.”

desired relief. Furthermore, even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.”).

²¹ 3 V.I.C. §881(e).

This Court recognizes the statute does classify the Authority as a government entity and thus falls under the purview of the Public Records Act. When it comes to statutory interpretation, in general, the Supreme Court of the Virgin Islands has determined that “the first step . . . is to determine whether the language at issue has a plain and unambiguous meaning. If the statutory language is unambiguous and the statutory scheme is coherent and consistent, no further inquiry is needed.”²² Looking at the enabling statute it states that the Authority is “semi-autonomous” meaning that it lacks full independence. Such a reading is supported by language found in the statute that states that the Authority is subject to the “general **supervision and direction** of the Governor” (emphasis added).²³ Use of this language makes the position of the Legislature clear in that the Authority was formed as an extension of the Government. Looking towards the purpose of the Authority, as stated under the subsection labeled “Creation,” it is to “aid the Government in the performance of its duties to develop the economy of the Virgin Islands.”²⁴ The main reason this entity was created was to further goals of the government as it strives to develop the territory’s economy. Reading further in the appointment of the governing board, the entire seven (7) person board is appointed by the Governor himself. Statutory principles direct this Court to “give effect to every provision.”²⁵ In doing such, it is hard for this Court to believe that the Authority is separate from the government of the Virgin Islands especially when the government has a firm hand in its creation and management.

Additionally, the Government argues that in accordance with statutory construction principles there are conflicting statutory provisions that also render the information requested

²² *In re L.O.F.*, 62 V.I. 655, 661 (V.I. 2015) (internal and other citations omitted).

²³ 29 V.I.C. §1101(b).

²⁴ *Id.*

²⁵ *In re L.O.F.*, 62 V.I. 655 at 661.

unable to be disclosed. Specifically, the Government compares section 1101(b) of Title 29 of the Virgin Islands Code and section 1101(a)-(b). Under section 1101(b), the statute provides in part that “property of the Authority shall be deemed to be those of the Authority and not to be those of the Government of the Virgin Islands, or any office, bureau, department, agency, commission, municipality, branch, agent, officer, or employee thereof.”²⁶ The Government takes the position that although the language in section 1101(a)-(b) states that the Authority is a semi-autonomous government instrumentality, the latter language in section 1101(b) should prevail as it is more specific. Generally, in cases of statutory interpretation when there are two statutes, or provisions, that touch on the same subject, the Government is correct; the more specific provision would prevail over the more general one.²⁷ However, the Government’s analysis is short-changed and misguided. First, it is the language in 1101(a)-(b) and not that of 1101(b) that is more specific and thus would be the controlling provision. It is hard for the Court to follow the logic that the first one and a half paragraphs of the statute labeling and detailing the establishment and function of the Authority is less specific than the last line of 1101(b). However, acknowledging that there is overlap within the provisions, the Supreme Court of the Virgin Islands has further determined that the specific statute would control **unless** it appears the Legislature intended for both statutes to apply concurrently.²⁸ The Court believes that this is the instance here.

Looking at the statute as whole and evaluating how it is constructed, this Court finds that the statute flows in a manner that shows concurrence. The fact that it is in the same provision, in

²⁶ 29 V.I.C. §1101(b).

²⁷ *Id.* (citing *Ray v. Spirit Airlines, Inc.*, 767 F.3d 1220, 1225 (11th Cir. 2014) (In cases dealing with the interpretation of statutes that “touch on the same subject,” the Supreme Court of the Virgin Islands has held that it is a well-established rule in statutory construction that “the more specific statute takes precedence over the more general one, unless it appears the Legislature intended for the more general to control or for both statutes to apply concurrently).

²⁸ *In re L.O.F.*, 62 V.I. at 661 (V.I. 2015) (internal and other citations omitted).

the same paragraph, that the Legislature states that the Authority is subject to the general supervision and direction of the Governor but also that the property of this government instrumentality is that of its own favors that these principles are to stand side by side, literally and figuratively. Although the property is that of the Authority, the Authority is unable to escape the purpose and reasoning behind its creation. Further, this Court finds it noteworthy to not only look at the statutory provisions in section 881 of title 3, but also in section 883.

When the Legislature enacted section 881 giving the public the right to access government documents they subsequently enacted section 883, in which depository libraries were established for public documents and indexes.²⁹ The depository libraries are used to “effectuate the territory’s public policy to make governmental information available to governmental agencies and the general public...”³⁰ This provision of title 3 enabled section 881 to become functional, in which it gave the public a way to access documents the Government of the Virgin Islands now deemed public. Within section 883, also houses what the Legislature defined as a “governmental agency” when it enacted this section. It provides that a governmental agency includes “the Legislature, any governmental entity, board, bureau, commission, department, agency, division, authority, office, or agent, or **semi-private governmental entity receiving governmental funds for its operation in whole or in part...**”(emphasis added).³¹ Though this definition is not found in section 881, it does give the Court insight as to what type of agencies the Legislature had in mind when establishing an avenue so that documents may be viewed by the public, as directed by the statute. The Authority falls squarely into this definition. As a semi-autonomous or semi-private entity that

²⁹ See 3 V.I.C. §883.

³⁰ 3 V.I.C. §883(a).

³¹ *Id.* at §883(b)(2).

is allocated funds from the Government of the Virgin Islands³², the Authority is specifically the type of government agency that the Legislature was speaking to when directing agencies to supply the depository libraries with public documents susceptible to public view.³³ Accordingly, the Court finds that the Authority is deemed a government entity and thus subject to the Public Records Act.

ii. The information requested by the Daily News does not fall under the competitive advantage exception under Title 3, Section 881(g)(6).

Next the Government asserts that should it be found that the Authority is subject to the Public Records Act, the documents requested by the Daily News are still ineligible for release as they fall under two of the enumerated exceptions located within the Public Records Act statute, namely those of competitive advantage and trade secret.³⁴ Under 3 V.I.C. §881(g)(6), outlining the competitive advantage exception, it states that “the following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release information... [r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.” Here the Legislature gives a two-part hurdle required to be cleared in order to classify information as a competitive advantage: (1) the reports, if released, will give an advantage to competitors, and (2) the reports, if released, will serve no public purpose.³⁵

Addressing the first prong of whether the information requested by the Daily News will give an advantage to competitors, this Court finds that it will not. Looking at the plain language of

³² See 29 V.I.C. §1109.

³³ 3 V.I.C. §883(c)(1).

³⁴ 3 V.I.C. §881(g)(6).

³⁵ *In re L.O.F.*, 62 V.I. at 661 n. 6 (V.I. 2015) (The Supreme Court of the Virgin Islands has established that a *Banks* analysis is not required for statutory interpretation.).

the statute, and the common meaning of a competitive advantage³⁶, the Court finds that the Government is unable to demonstrate how the release of the requested information will give possible competitors an edge over the Authority. As asserted by the Daily News and un rebutted by the Government in neither their response motions nor during oral argument, in order for applicants to qualify for the loan given by the Authority they must show that they were unable to secure a loan elsewhere.³⁷ This assertion is confirmed through Defendant Biggs' Affidavit in which he refers to the Economic Development Bank as "the lender of last resort."³⁸ Such a process negates any type of competition between the Authority and other loan agencies within the Territory. Here, the Government instead throws most of its support for the competitive advantage exception behind the "public purpose" prong. Even so, such a position would be difficult to take.

Acknowledging the second prong of "public purpose," the Government argues that the release of the requested documents will serve no public purpose. This Court finds that the public purpose favors the disclosure of the documents. Although the Court does not look to blanket this request with the generality that "the public has a right to know," it does look at the totality of the circumstances at hand. The public, as taxpayers of the Government of the Virgin Islands, has the right to know how a government agency is handling public funds, especially if it is done so inefficiently as shown in the Audit provided by the Office of the Inspector General.³⁹ Here, we have an agency, who upon the audit of a third party government agency, has been shown to have

³⁶ *Defoe v. Phillips*, 56 V.I. 109, 121 (V.I. 2012) (citing 1 V.I.C. 42) (As it pertains to words and phrases within a particular statute, the Virgin Islands Legislature has instructed that "[w]ords and phrases shall be read with their context and shall be construed according to the common and approved usage of the English language,' but that [technical] words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to their peculiar and appropriate meaning.").

³⁷ See Pl.'s Mot. Summ. J.

³⁸ Def. Wayne Biggs' Aff. 1.

³⁹ See Insp. Gen.'s Audit.

a high level of delinquencies with over eight million dollars in past due balances.⁴⁰ With the public's wallet on the line, this Court finds that disclosure is a service that the public is entitled to. Furthermore, the Government argues that the release of the requested information would not only hamper the Authority's purpose, it would also will have a "chilling effect," the Court does not see how. The Authority, as it stands, will still be able to fulfill its purpose of promoting and aiding the Virgin Islands economy. If anything such a release will encourage the Authority and its loanees to be more diligent in how they handle, disperse, and manage the funds afforded. In light of such, this Court does not find that the competitive advantage exception applies.

iii. The information requested by the Daily News does not fall under the trade secret exception under Title 3, Section 881(g)(3).

In conjunction with the competitive advantage exception, the Government also raises the argument that the information requested by Daily News falls under an additional statutory exception; a trade secret. Under the enumerated exceptions, "trade secrets which are recognized and protected as such by law" are exempted from the Public Records Act. A trade secret is defined as information that derives actual or potential independent economic value from not being generally known or readily ascertainable, and is the subject of reasonable efforts to maintain its secrecy.⁴¹ Trade secrets encompass "information, including formula pattern, compilation, program, device, method, technique or process."⁴² Protection of trade secrets encourages inventions, good faith practices, as well as the exchange of confidential information.⁴³

⁴⁰ See generally *Smith v. Gov't of V.I.*, 4 V.I. 489, 492 (3rd Cir. 1964) (Speaks towards the "taxpayer statute" in which taxpayers have the right to sue to restrain illegal or unauthorized acts by a territorial officer or employee, the wrongful disbursement of territorial funds, or alienation of territorial property.) This shows that the territory supports the public's interest in the management and use of public funds.

⁴¹ 11 V.I.C. §1002(d).

⁴² *Id.*

⁴³ *VI 4D, LLLP v. Crucians in Focus, Inc.*, 2012 VI LEXIS 65, *12 (VI Super. Ct. Feb. 5, 2014).

The information being requested is not a trade secret. The Court does not find, nor has the Government provided an alternative, as to how the information being requested derives independent economic value from not being generally known. In other words, lacking a display by the Government of a manner in which someone could gain economic value from knowing this information, the Court is unable to find that one exists. However, what the Court does find is that the names of the borrowers, the amount borrowed, and the status of the loan does not show any type of formula, pattern or method as to the internal mindset of the Authority and how they manage their loan programs. Furthermore, the release of this information does not shoulder the financial secrets of loanees as the Government suggests. The Court recognizes that this would be a different analysis had the Daily News requested applicant information given during the application period in which sensitive financial and personal information is divulged. However, that is not the case here. Here, the information requested is derived after the application has been approved and the money has long been dispersed by the Authority. Lacking a sufficient basis, the Court finds that the information requested by the Daily News is not a trade secret.

iv. The Economic Development Bank is not a private bank, as such it is not subject to the breadth of the Banking Law.

Lastly, the Government asserts that the Economic Development Bank, a subsidiary of the Authority, is subject to Virgin Islands Banking Law ("Banking Law") due to its dealings with private banking institutions.⁴⁴ The Court disagrees. When the Legislature created the Economic Development Bank under Title 29, section 901, they made it a point to subsequently enact section 911. Section 911, titled "Inapplicability of Banking Law," explicitly states that "none of the provisions of the Banking Law, except as referenced herein, shall apply to the Bank, its directors,

⁴⁴ Def. Gov't's Opp. 11.

officers, employees or agents.”⁴⁵ The Government attempts to blanket the Economic Development Bank with the Banking Laws simply because they conduct business with institutions and businesses who would fall under its breadth. However, due to the explicit, narrow application of the Banking Law to the Economic Development Bank, the Court is unable to find that it applies. As such, lacking the assertion of a specific provision of the Banking Law that would prevent the disclosure of the requested information, the Court finds this argument inapplicable.

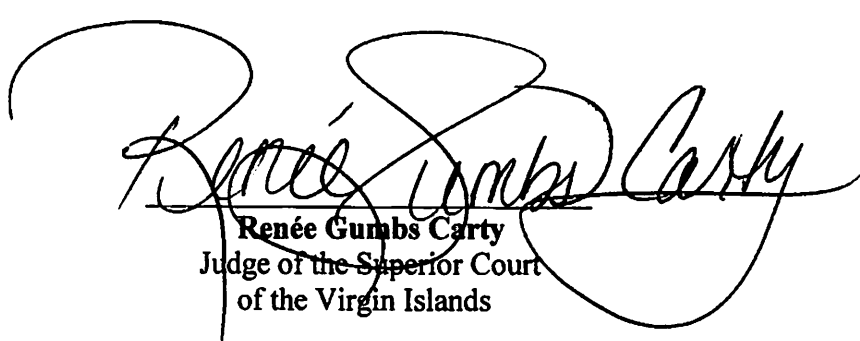
IV. CONCLUSION

Upon review of both sides of arguments, this Court finds that summary judgment is appropriate as there are no genuine issues of material fact before the Court, and Daily News is entitled to judgment as a matter of law. The Authority, is an extension of the Government, as a government instrumentality and thus subject to the Public Records Act. Although the Government has raised the arguments that the information requested falls under the statutory exceptions of competitive advantage and trade secrets, this Court does not find that to be the case. As there is no exception to shelter the requested information, this Court grants summary judgment on behalf of the Daily News, and orders that the information requested specifically; the names of the borrowers, the date of the loan, the amount of the loan, the status of the loan, and the purpose of the loan shall be released. As a result of such, the Court finds that Daily News is entitled to a writ of mandamus, in accordance with the remedy provided in Title 3, section 881(e) of the Public Records Act. Although Defendant Wayne L. Biggs, Jr. failed to reply, he as well as his counsel, were present at the hearing conducted by this Court on October 30, 2017. At which, he was given an opportunity to be heard as to the merits and arguments presented before this Court for summary judgment. In

⁴⁵ 29 V.I.C. §911.

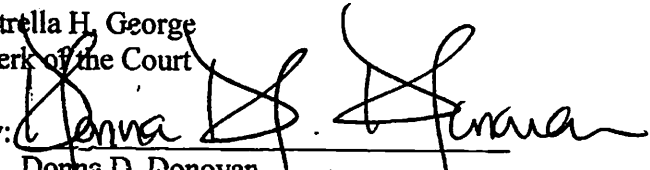
light of such, this Court finds summary judgment to be entered against him as well. The Daily News' motion for summary judgment will be granted in an appropriate order of even date.

Dated: November 30, 2017



Renée Gumbs Carty
Judge of the Superior Court
of the Virgin Islands

ATTEST:
Estrella H. George
Clerk of the Court



By: Donna D. Donovan
Court Clerk Supervisor

12/1/2017