

9th August 2023

Re: Freedom of Information request 202320- Request Part-Grant.

Dear

I refer to your request, originally dated and received on 11th of July, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

- a copy of meeting minutes for the board in the period July 2022 to date.

I wish to inform you that I have decided to part-grant your request on the 9th August 2023.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decisions to deny access.

Details of your request were provided to the relevant sections within the LDA to identify records held which were within the scope of your request.

The records requested are attached to this decision letter for your information. These consist of minutes of meetings of the LDA for each month since July excepting August as there was no meeting in this month.

I wish to inform you that I am refusing a number of records in accordance with Section 29(1), 31(1), 36(1), Section 37(1) of the FOI Act. These records are included in the Schedule of Records in **Appendix 1**.

In respect of August 2022 the board did not sit in this month therefore I wish to inform you that I am refusing this part of your request under section 15(1)(a).

Refusal on administrative grounds to grant FOI requests

I5(1) A head to whom an FOI request is made may refuse to grant the request where:

(a)The record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

A number of these records relate to deliberative processes of public bodies and refer to matters that are not currently finalised.

Section 29 – Deliberation of Public Bodies

(1) A head may refuse to grant an FOI request-

- a) If the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and
- b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

A section of one of these records has been withheld from the release under section 31(1)(a). These records are detailed in the Schedule of Records in **Appendix 1**.

Section 31 states that:

Parliamentary, Court and Certain Other Matters

31(1) A head shall refuse to grant an FOI request if the record concerned—

- (a) Would be exempt from production in proceedings in a court on the ground of legal professional privilege.

I am satisfied that these types of records attach legal privilege.

Section 36-Commerically Sensitive Information

- (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains
 - a) trade secrets of a person other than the requester concerned
 - b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or
 - c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

Section 37-Personal Information

(1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).

Personal information is defined at Section 2 of the FOI Act and includes the following:

Section 2 -- Interpretation

2. (1) In this Act-

"personal information" means information about an identifiable individual that, either-

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by that body as confidential,

and, without prejudice to the generality of the foregoing, includes-

(iii) information relating to the employment or employment history of the individual,

(v) information relating to the individual in a record falling within section 11(6)(a).

(vii) information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,

Harm Test and Public Interest Test

There is Harm test and Public Interest Test associated with section 29, 36, and 37 of the FOI Act whereby my decision must be made having fully considered the public interest relevant to this request.

The Harm test has been considered and it is believed that the release of these documents will have a likely prejudice on reasonable expectation that information provided to and held by the LDA can be maintained in a confidential manner, which outweighs the public interest that would be served were the records released to you.

I have considered the public interest issues which arise in your request and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of organisational functions to the greatest possible extent.
- The public interest in members of the public exercising their rights under the FOI Act.
- That there is more than just a transitory interest by the public in this information being released.
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records, I have taken account of the following:

- The best course of action which is in the public interest with regard to these records.
- That the LDA can conduct its business with external stakeholders in a confidential manner.
- Allowing a public body to hold personal information without undue access by members of the public.
- The public interest is not best served by releasing of these records.
- Protecting the flow of information to public bodies.
- Ensuring public bodies can carry out their duties without intrusion by the public.

Having reviewed the records for your request, I find there is no exceptional circumstance in this particular case that would warrant release of these particular records and therefore my decision is to find that the public interest is best served by refusal.

2. Right of Appeal

In the event that you are unhappy with this decision you may appeal against it. If you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Land Development Agency, 2nd Floor, Ashford House, Tara Street, Dublin 2 or by e-mail to foi@lda.ie.

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Head of Finance, Land Development Agency, 2nd Floor, Ashford House, Tara Street, Dublin 2.

Payment can be made by electronic means, using the following details:

The Land Development Agency DAC

IE61AIBK93101264101092

BIC: AIBKIE2D

You must ensure that your FOI reference number (FOI 202320) is included in the payment details.

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Please be advised that the Land Development Agency replies under Freedom of Information may be released into the public domain via our website at lda.ie.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone on (01) 9103400.

Yours sincerely,



Monika Szyszko,

Compliance Manager



Appendix 1: Schedule of Records

Requester name:		Request:202320			
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision
4 pages	LDA Board Minutes 28 07 2022	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 29 Section 36 Section 37	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information	Part grant
5 pages	LDA Board Minutes 22 09 22	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 29 Section 36 Section 37	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information	Part grant
3 pages	LDA Board Minutes 27 10 22	Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 36 Section 37	Commercially Sensitive Information Personal Information	Part grant



3 pages	LDA Board Minutes 21 11 22	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 29 Section 36 Section 37	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information	Part grant
3 pages	LDA Board Minutes 15 12 22	Legal professional privilege Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 31 Section 36 Section 37	Parliamentary Court and Certain other Matters Commercially Sensitive Information Personal Information	Part grant
6 pages	LDA Board Minutes 30 01 2023	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 29 Section 36 Section 37	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information	Part grant
5 pages	LDA Board Minutes 22 02 23	Deliberations of FOI Bodies	Section 29 Section 36	Deliberations of FOI Bodies	Part grant



		Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 37	Commercially Sensitive Information Personal Information	
3 pages	LDA Board Minutes 06 03 23	Personal Information (name of third party private sector employee)	Section 37	Personal Information	Part grant
5 pages	LDA Board Minutes 30 03 23	Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 36 Section 37	Commercially Sensitive Information Personal Information	Part grant
6 pages	LDA Board Minutes 27 04 23	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 29 Section 36 Section 37	Deliberations of FOI Bodies Commercially Sensitive Information Personal Information	Part grant
5 pages	LDA Board Minutes 24 05 23	Commercially Sensitive Information Personal Information (name of third	Section 36 Section 37	Commercially Sensitive Information Personal Information	Part grant



		party private sector employee)			
3 pages	LDA Board Minutes 21 06 23	Commercially Sensitive Information Personal Information (name of third party private sector employee)	Section 36 Section 37	Commercially Sensitive Information Personal Information	Part grant
		Total number of pages			51
		Total number of pages for full release			39
		Total number of pages for partial release			12
		Total number of pages being withheld			0

