

12th October 2023

Re: Freedom of Information Request 202335 – Request Refused.

Dear ,

I refer to your request dated and received 14th of September 2023, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by the Land Development Agency (LDA).

- a) *All correspondence sent to the LDA's email address privatelandacquisitions@lda.ie from the period 28 July 2023 to 02 August 2023*
- b) *All correspondence received by John Coleman from LDA staff about the Private Land Acquisition Initiative from the period 15 August 2023 to 14 September 2023*
- c) *All correspondence between John Coleman and the Department of Housing about the Private Land Acquisition Initiative from the period 15 August 2023 to 14 September 2023*

I wish to inform you that I have decided to refuse your request on the 12th of October 2023.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions.

Upon receipt of your request was forwarded to the relevant sections within the LDA who then conducted a search for records relating to your request.

For ease of reference, I have divided your request into parts A, B and C.

Part A

In respect of part A of your request where you requested “*All correspondence sent to the LDA's email address privatelandacquisitions@lda.ie from the period 28 July 2023 to 02 August 2023*”, I wish to inform you that I am refusing this part of your request. I am refusing these records in accordance with section 36(1)(b), 36(1)(c) and 37(1) of the FOI Act.

The FOI Act 2014 also provides that in certain circumstances, a public body may refuse the release of certain records or part thereof. These records and reasons for their refusal are detailed in the Schedule of Records in **Appendix 1**.

The records contain information, which is of a commercially sensitive nature, therefore, in accordance with the provisions of Section 36 of the Act, I am refusing the release of these records.



Section 36 states that:

Commercially Sensitive Information

36. (1) *Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains*

(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.

I am satisfied that these records contain information that could result in the material financial loss or gain to the persons to whom the information relates as it includes the number of acres held by individuals, development potential and access to services at these sites.

In addition, I am satisfied that the release of certain commercial information contained within these records would prejudice the competitive position of the LDA and any current or future negotiations by the LDA.

I am cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. If the record was made available to you it is reasonable to expect that it would prejudice the ability of the LDA to compete in negotiations in the future as competitors would be aware of its position.

Public Interest Test

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

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 commercial confidentiality is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records as detailed in part A of your request, I have taken account of the following:

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That the LDA can conduct its commercial activities with external stakeholders in a confidential manner.
- That there is no overriding public interest that outweighs the individual's right to privacy in this case commercial activities.



Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

I am also refusing the release of these records under the provisions of section 37.

Section 37-Personal Information

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information, including personal financial information, in a confidential and secure manner and prevent personal information from being released into the public domain unnecessarily. Additionally, the LDA as a matter of course redacts the mobile phone numbers and email addresses of employees as these are part of the body's IT security management.

Section 2 of the FOI Act defines personal information as follows:

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,

Section 37(1) provides that a public body shall refuse to grant a request if access to the records concerned would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties, including representations on behalf of family members and work email accounts, and I am satisfied that the records consist of personal information. This information includes names, contact details and personal financial information in terms of property ownership and size of said property.

Section 37(1) of the FOI Act states as follows:

37. (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).

As section 37 requires a public interest test be carried out. I have considered the public interest issues which arise in this case 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.
- That there is more than just a transitory interest by the public in this information.
- 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 public interest is not best served by releasing these records.
- That the Organisation can conduct its business in a confidential manner.
- That there is a reasonable and implied expectation that sensitive personal information will remain confidential.
- That there is no overriding public interest that outweighs the individual's right to privacy.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in confidential manner by the LDA outweighs the public interest which would be served were the detail released to you.

Part B

In respect of part B of your request where you requested “*All correspondence received by John Coleman from LDA staff about the Private Land Acquisition Initiative from the period 15 August 2023 to 14 September 2023*” I wish to inform you that I am refusing this part of your request in accordance with Section 15(1)(a) of the FOI Act 2014.

On receipt of your request, it was forwarded to the appropriate section of the LDA for search and retrieval of any records identified within the scope of your request. In this regard, I am to advise you that no records have been identified as sought by you.

I am refusing your request in accordance with Section 15(1)(a) of the FOI Act 2014, which states:

Refusal on administrative grounds to grant FOI requests

15(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,

There are no records within the scope of your request held by the LDA.

Part C

In respect of part C of your request where you sought “*All correspondence between John Coleman and the Department of Housing about the Private Land Acquisition Initiative from the period 15 August 2023 to 14 September 2023*” I wish to inform you that I am refusing this part of your request in accordance with Section 15(1)(a) of the FOI Act 2014.

Details of your request were provided to the relevant section within the LDA to identify records held which were within the scope of your request. In this regard, I am to advise you that no such records have been identified as sought by you.

I am refusing your request in accordance with Section 15(1)(a) of the FOI Act 2014, which states:

Refusal on administrative grounds to grant FOI requests

15(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,

There are no records within the scope of your request held by the LDA.

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 202335**) 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,
Senior Compliance Manager

Appendix 1: Schedule of Records

Requester name:		Request Re:202335				
Page number	Description of document	Deletions	Relevant section of FOI Act	Reasons for deletion	Decision Maker's decision	
Part A						
2 pages	_ FW_ (location of site) – (name of site) No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
1 page	FW_ Lands zoned for (type of zoning commercially sensitive) at [location]_ No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
1 page	FW_ Privately Owned Development Land [location] No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
2 pages	Fwd_ Expressions of Interest- Private Land Acquisition Initiative – [owners' name] – [site name and location] No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
2 pages	Private Land Acquisition – Proposal No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
2 pages	RE_ EOI- [location] Land No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
4 pages	RE_ EOI- Private Land Acquisition - [owner name] [site]_ No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	
3 pages	Re_ EOI- Private Land Acquisition - [owner name] (5) No attachments on email	N/A	36 37	Commercially Sensitive Information Personal Information	Refuse	



4 pages	RE_ EOI- Private Land Acquisition - [owner name] (6) No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages	RE_ EOI- Private Land Acquisition - [owner name] 2 attachments	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages	Attachment to RE_ EOI- Private Land Acquisition - [owner name]	N/A	36	Commercially Sensitive Information	Refuse
6 pages	2 nd attachment to RE_ EOI- Private Land Acquisition - [owner name]	N/A	36	Commercially Sensitive Information	Refuse
4 pages	RE_ Expression of Interest Uploaded - Private Land Acquisition Initiative (1) No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
4 pages	RE_ Expression of Interest Uploaded - Private Land Acquisition Initiative (3) No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
7 pages	Re_ Expression of Interest Uploaded - Private Land Acquisition Initiative (4) No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages	Re_ Expression of Interest Uploaded - Private Land Acquisition Initiative No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
3 pages	RE_ Expressions of Interest- Private Land Acquisition Initiative - [Owner Name] - [location] (2) No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
2 pages	RE_ Expressions of Interest- Private Land Acquisition Initiative - [Owner Name] - [location] No attachments on email	N/A	36	Commercially Sensitive Information	Refuse
			37	Personal Information	
Total number of pages					55
Total number of pages for full release					00
Total number of pages for partial release					00
Total number of pages being withheld					55



