

28 August 2015

Applicant

s47F

Dear s47F

I refer to your correspondence dated 26 May 2015, in which you have requested access to information on behalf of your client s47F under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests for access to documents. My decision and the reasons for that decision are set out below.

Background

I acknowledged receipt of your request on 29 May 2015.

On 22 June 2015, Defence Housing Australia issued you with a notice under section 24AB of the FOI Act on the basis that the work involved in processing your original request would substantially and unreasonably divert the resources of Defence Housing Australia. You were invited to withdraw or refine the scope of your request.

On 1 July 2015 you lodged a revised Freedom of Information (FOI) request by email, in which you have sought access to information, as below:

..with respect to any proposed development of the Site (as the term is defined in the FOI Application). In particular, we require all minutes of meetings as it refers to realtors and developers, and communication between Defence Housing Australia and any realtors and developers, only with respect to the development of the Site.

I wrote to you on 31 July 2015 extending the statutory deadline under section 15(6) of the FOI Act to undertake consultation with a third party.

Legislative background

The Act provides a right of access to information in the possession of Commonwealth agencies, limited only by exceptions and exemptions provided for in the Act.

HEAD OFFICE



Decision

DHA has identified 10 documents, consisting of 19 pages, as falling within the scope of your FOI request. A schedule of the documents is set out at Attachment A (the schedule).

I hereby decide that:

- a. Part of documents 1-10 are partially and conditionally exempt under section 47F of the FOI Act and disclosure would be contrary to the public interest. Those parts of the documents 1-10 that are not conditionally exempt are to be released, unless otherwise exempt or irrelevant.

Reasons

Where the schedule indicates an exemption claim has been applied to a document or part of a document, my findings of fact and reasons for deciding that the exemption provision applies to that document or part of the document are set out below.

Section 47F – Public interest conditional exemption – Personal Privacy

Section 47F of the FOI Act relevantly provides:

- 1) *a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- 2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - a. The extent to which the information is well known;
 - b. Whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
 - c. The availability of the information from publicly accessible sources;
 - d. Any other matters that the agency or Minister considers relevant.
- 3) Personal information is defined in section 4 of the FOI Act as:
Information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Documents 1-10 contain the personal information of a number of third party organisations that have approached DHA to provide their realtor/development services. The third party organisations whose information is contained in these documents have advised that they do not consent to the release of personal information about its employees. In summary, I find that the release of the personal information contained in these documents would constitute an unreasonable disclosure of information.

I have not identified any minutes of meetings or communication between Defence Housing Australia and any other party with respect to the development of the site. Documents 1-10 are included in your scope as Defence Housing developments within Western Australia, in general, were discussed at these meetings.

Public interest test

Under subsection 11A(5), the FOI Act requires the agency or Minister to give the FOI applicant access to a conditionally exempt document unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

I have decided that, in the circumstances of this particular matter, the public interest in disclosing the personal information in documents 1-10 is outweighed by the public interest against disclosure. This is primarily because, on balance, very limited public purpose would be achieved through the release of this information. I consider that the protection of privacy is a factor that outweighs any factor in favour of disclosure.

I am satisfied that the personal information in documents 1-10 is conditionally exempt under section 47F of the FOI Act. Furthermore, I have decided that on balance it would be contrary to the public interest to release the personal information. Accordingly, I have decided to release the documents with the exempt personal information redacted under section 22 of the FOI Act.

Material on which my findings of fact are based

I based my findings of fact on the following material:

- (a) the terms of your freedom of information request;
- (b) the content of the documents to which you sought access;
- (c) the relevant provisions of the FOI Act; and
- (d) the Freedom of Information Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**the OAIC Guidelines**).

Liability to pay charges

I have decided not to impose any charges.

Rights of review

If you do not agree with my decision in relation to release of documents you are entitled to apply for an internal review of the decision and/or external review by the Australian Information Commissioner. Information on your review rights is at Attachment B.

FOI disclosure log

In accordance with the requirements of section 11C of the FOI Act, Defence Housing Australia is required to publish, on its website, information released under the FOI Act within 10 working days of the applicant being given access to documents. Defence Housing Australia will also publish the decision notice, with any personal and business information deleted. The information published does not include personal information or the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable. Other information not published also includes that which the Australian Information Commissioner determines is unreasonable to publish.

Further information

Please do not hesitate to contact me if you have any questions about this matter.

Yours sincerely

s47F

Pip Sackley
Executive Officer