

28 October 2013

Ms [REDACTED]

Dear [REDACTED]

Request for access to documents under the *Freedom of Information Act 1982* (the Act)

1. I refer to your request of 29 September 2013 for access to information held by Defence Housing Australia under the *Freedom of Information Act 1982* (Cth).
2. I am an officer authorised under section 23 of the 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

3. On 29 September 2013 you lodged a Freedom of Information (FOI) request by email. I have extracted the relevant section below:

I wish to request all copies of both verbal and written complaints and/or requests made by our neighbours ([REDACTED]) to DHA and all responses/replies (both verbal and written made by DHA to this neighbour. The complaint/information being in relation to a fencing and nuisance dog matter. Our property being [REDACTED] and the neighbours (names unknown) of our property [REDACTED]

4. I acknowledged receipt of this request on 1 October 2013.

Legislative background

5. 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.

Decision

6. I have identified three documents listed in the attached Schedule of Documents as falling within the scope of your request.

HEAD OFFICE



7. Documents 1, 2 and 3 contain personal information for the purposes of section 4 of the FOI Act. I am satisfied that disclosure of this information would amount to an unreasonable disclosure of personal information. Further, I consider that the release of these documents would be, on balance, contrary to the public interest.
8. Accordingly I find that Documents 1, 2 and 3 are exempt under section 47F (Public interest conditional exemptions – personal privacy) of the FOI Act.

Material on which my findings are based

9. I based my findings on the following material:
 - the content of the identified documents;
 - the relevant provisions of the FOI Act;
 - the guidelines published by the Office of the Australian Information Commission under section 93A of the FOI Act (OAIC Guidelines);
 - advice from DHA staff whose duties relate more closely to the matters referred to in the document; and
 - the content of your FOI request.

Reasons for decision

10. **Section 47F of the *Freedom of Information Act 1982* 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.
11. *'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'

12. Section 11A(5) of the FOI Act requires me to, nevertheless, give the applicant access to the information unless, in the circumstances access to it would at the time and, on balance, be contrary to the public interest. I have weighed the factors for and against the release of this information and decided that it is not in the public interest to release it. The factors affecting my decision include that it is neither well known nor readily available from publicly accessible sources. I consider that there is a public interest in the protection of personal information which was provided to DHA in confidence.

Charges

13. I have decided not to impose any charges.

Rights of review

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

FOI Disclosure Log

15. 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.

Yours sincerely



Pip Sackley
Executive Officer

Attachments:

- A. Schedule of Documents.
- B. FOI Fact Sheet 12 – Freedom of information – Your review rights.