

L. Lluva

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12 April 2010

FOI 440 Internal Review

Dear L. Lluva,

I am writing further to our letter of 11 March 2010 regarding your request for an Internal Review of our response to FOI 440 and to update you on what progress has been achieved to date.

Please note that in addition to having located, printed, indexed and collated the information we hold relevant to your request we have now reviewed the information held, that is, minutes, papers and summary reports relating to the Olympic Delivery Committee (ODC) meetings which were produced in 2005. In reviewing this information we have considered whether any of the information is exempt from disclosure, including applying the public interest test and consulting third parties in instances where commercially sensitive information is included in the material, often provided under confidentiality clauses.

Due to the volume of information held, to date we have been able to complete this exercise for the documents relating to 2005 only. We will continue to review and consider the information held pertaining to other years, which we envisage will be provided within 3 weeks.

We have provided below 3 tables listing the following information:

1. Information held and provided:

A list of documents provided, including date of meeting, document reference number and description, the nature of any information that has been redacted from each document and the exemption which applies to these redactions. Further information regarding the application of exemptions is provided subsequent to the tables.

2. Information withheld

A list of documents that are being withheld in full and the exemption which has been applied.

3. Information not held

A list of documents that cannot be located in our document management system.

1. Information Held and Provided:

Meeting Date	Doc Reference	Document Description	Redactions (N/A = no redactions)	Section
2005				
22/12/05	3591734	Item 4 Update on Powerlines Funding	Legal advice	S42
	3622832	Item 4 Appendix 1	Names	S40
	3590478	Item 4 Appendix 4	N/A	
	3628475	Item 4 Appendix 3 (Labelled incorrectly, is actually Appendix 2)	Names	S40
09/12/05	3618367	Agenda	Names	S40
	3591816	Minutes of meeting 09/11/05	Names	S40
	3591845	Action Sheet of meeting 09/09/05	Names	S40
	3631432	Item 6 Approval of contracts for the under grounding of power lines	Names, commercially sensitive content and legal advice	S40 S43 S42
	3595978	Item 6 Appendix 1	N/A	
	3596188	Item 6 Appendix 2	N/A	
	3596258	Item 6 Appendix 5	N/A	
	3596275	Item 6 Appendix 6	N/A	
	3596303	Item 6 Appendix 8	N/A	
	3596328	Item 6 Appendix 9	N/A	
	3596336	Item 6 Appendix 10	N/A	
	3596339	Item 6 Appendix 11	N/A	
	3592289	Item 7 Olympic Park Wide Designers plus Appendix/Annex 1	Names and commercially sensitive content	S40 S43
	3592353	Item 8 Olympic and Legacy Planning	Names, legal advice	S40 S42
	3592456	Item 8 Appendix 1	N/A	
	3596385	Item 8 Appendix 2	N/A	
	3596349	Item 8 Appendix 3	N/A	
	3596375	Item 8 Appendix 4	N/A	
	3592516	Item 8 Appendix 5	N/A	
	3592521	Item 8 Appendix 6	N/A	
	3629593	Item 9 Lower Lea Valley, Olympic Site Conditional Acquisition – Sortex Ltd Pudiding Mill Lane, E15	Names and Legal advice	S40 S42
	3629605	Item 9 Appendix 1	Names and Legal advice	S40 S42
	3596424	Item 9 Appendix 2	N/A	
	3596450	Item 9 Appendix 3	N/A	
09/11/05	3592859	Agenda	Names	S40
	3592617	Action Sheet of meeting 06/09/05	Names	S40
	3631352	Minutes of meeting 06/09/05	Names and legal advice	S40 S42
	3592972	Item 6 Olympic Opportunity and International Promotion	N/A	
	3596555	Item 6 Appendix 1	N/A	
	3596606	Item 6 Appendix 1	N/A	
	3596652	Item 8 Selection of Development Partner at Beckton Gas works and Orient Way Leyton for Olympic Business relocations	Names and Legal advice	S40 S42
	3596666	Item 8 Appendix 1	N/A	
	3596676	Item 8 Appendix 1	N/A	

	3596682	Item 8 appendix 2	N/A	
	3596767	Item 9 Procurement Update	N/A	
	3596770	Item 9 Appendix 1	N/A	
	3601893	Item 10 Olympics Risk Assessment	Names	S40
	3601968	Item 10 Appendix 1	N/A	
	3601933	Item 10 Appendix 2	N/A	
	3596943	Item 11 Local Employment and Training Framework	Names and Legal advice	S40 S42
	3601737	Item 11 Appendix 1	N/A	
	3601788	Item 11 Appendix 2	N/A	
06/09/05	3602052	Agenda	Names	S40
	3602223	Minutes of meeting 08/08/05	Names	S40
	3602248	Action Sheet of meeting 08/08/05	Names	S40
	3602256	Item 6 Interim ODA 90 Day Programme	Names	
	3602261	Item 7 Olympic Structures and responsibilities	Names	S40
	3602295	Item 8 Procurement Update	N/A	
	3602436	Item 8 Appendix 1	N/A	
	3603573	Item 9 Recruitment Update	Names	S40
	3603616	Item 10 Local Procurement	Names	S40
	3603678	Item 10 Appendix 1	N/A	
	3603745	Item 11 Powerlines Update	Names	S40
	3603819	Item 12 The London Development Agency (Lower Lea Valley Undergrounding of powerlines) Compulsory Purchase Order 2005	Names and Legal advice	S40 S42
	3603824	Item 12 Appendix 1	N/A	
	3603842	Item 12 Appendix 2	N/A	
	3603906	Item 13 the London Development Agency (Lower Lea Valley, Olympic and Legacy) Compulsory Purchase Order 2005	Names and Legal Advice	S40 S42
	3603910	Item 13 Appendix 1	N/A	
	3604014	Item 13 Appendix 2	N/A	
	3629529	Item 14 Lower Lea Valley, Olympics Acquisition Bywaters three sites at Lea interchange, Marshgate1 and Marshgate 2	Names and legal advice	S40 S42
08/08/05	3618535	Agenda	Names	S40
	3618555	Item 6 Progress update on structural changes in the LDA	Names and Legal advice	S40 S42
	3618597	Item 6 Appendix 1	N/A	
	3618830	Item 7 Undergrounding power lines for the London 2012 Olympic and Paralympic Games	Names and Legal advice	S40 S42
	3629515	Item 7 Appendix 1	N/A	
	1368841	Item 7 Appendix 2	N/A	
Reports to Board				
10/10/05	3604084	Item 2.1 LDA Olympic Programme Financial Implications	Legal advice	S42
	3604117	Item 2.1 Appendix 1	N/A	
	3604123	Item 2.1 Appendix 2	N/A	
	3604126	Item 2.1 Appendix 3	Names	S40
	3604127	Item 2.1 Appendix 4	Figures	S43
	3609122	Item 2.1 Appendix 5	N/A	
	3609164	Item 2.1 Appendix 6	N/A	
	3609260	Item 2.1 Appendix 7	N/A	
	3609296	Item 2.1 Appendix 8	N/A	

	3609364	Item 2.1 Appendix 9	N/A	
	3609660	Item 2.2 the London Development Agency (Lower Lea Valley Undergrounding of Powerlines) Compulsory Purchase Order 2005	Names and legal advice	S40 S42
	3614568	Item 2.2 Appendix 1	Names and legal advice	S40 S42
	3614583	Item 2.2 Appendix 1	N/A	
	3576288	Item 2.2 Appendix 2	N/A	
13/12/05	3629510	Item 2.1 summary Report of the Olympic Delivery Committee meeting of 09 December 2005.	Names	S40
	3618368	Agenda of ODC meeting 09/12/05	Names	S40
13/09/05	3629491	Item 2.1 Summary Report of the Olympic Delivery Committee meeting of 08 August and 06 September 2005	Names	S40
	3622128	Agenda of ODC meeting 08/08/05	Names	S40
	3618245	Agenda of ODC meeting 09/06/05	Names	S40
	3618207	Item 2.2 The London Development Agency (Lower Lea Valley Undergrounding of Powerlines) Compulsory Purchase Order 2005	Names and Legal advice	S40 S42
	3618224	Item 2.2 Appendix 2	N/A	
17/11/05	3618467	Item 2.1 Summary Report of Olympic Delivery Committee meeting of 09 November 2005	Names	S40
	3618475	Agenda of ODC meeting 09/11/05	Names	S40
	3618517	Item 2.2	N/A	
20/10/05	3619070	Item 3.1 Summary of Olympic Activity	N/A	
	3629476	Item 3.2 Establishment of an Interim ODA Bank Account plus Appendix 1	Names	S40
	3619366	Item 3.4 Finalisation of Olympics Delivery Committee's terms of reference and powers etc	Names and legal advice	S40 S42
	3619670	Item 3.4 Appendix 2	Names	S40
03/11/05	3621348	Item 2.3 the London Development Agency (Lower Lea Valley, Olympic and Legacy) Compulsory Purchase Order 2005	Names and legal advice	S40 S42
	3576283	Item 2.3 Appendix 1	N/A	
	3621501	Item 2.3 Appendix 2	N/A	
	3621857	Item 2.5 LDA Communications and the Olympics	Names	S40

2. Information Withheld

Meeting Date	Document Description	Section
09/12/05	Item 6 Appendix 3: Draft Summary of IDAs	S42
	Item 6 Appendix 4: Draft Summary of tunnel contract	S42
	Item 6 Appendix 7: Draft cost report	S43
	Item 7 Appendix 2: Consultancy Services for the Design of the Olympic Park and Site Wide Infrastructure - Tender Evaluation	S43

	Report	
06/09/05	Item 13 Appendix 3: Legal Opinion	S42
03/11/05	Item 2.3 Appendix 3: Legal Opinions	S42
	Item 2.3 Appendix 4: Crown Land Legal Advice Note	S42
	Item 2.3 Appendix 5: Miscellaneous Legal Issues Report	S42

3. Information Not Held

Meeting Date	Document Description
06/09/05	Item 6 a) Presentation on Total Olympic programme
	Item 14 Appendices 1-3
13/09/05	Item 2.2 Appendix 1
20/10/05	Item 3.3 Update on Olympic Masterplanning (presentation)
	Item 3.4 Appendix 1
22/12/05	Item 4 Appendix 2/3
03/11/05	Item 2.4 Selection of Development Partner at Beckton Gas Works and Orient Way Leyton for Olympic Business Relocations

Application of Exemptions

Under Section 2 of the Freedom of Information Act, the duty of a public authority to give access to information does not apply in respect of information which is exempt under the Act, applying the public interest balance, where necessary, to the application of the exemption.

You will note that we have applied the following exemptions to the information requested:

Section 40

Section 40 of the Act exempts personal data about a third party from disclosure if the disclosure would:

- breach any of the Data Protection Principles under the Data Protection Act; or
- cause (or would be likely to cause) substantial distress to the individual concerned.

The First Data Principle requires that disclosure of personal data under the Freedom of Information Act must be fair. We consider the names of staff below the level of Director and those of third parties to be exempt from disclosure on the basis that:

- the information is personal data;
- disclosure of the information would be unfair to the person concerned and therefore in breach of the Data Protection Principles.

We therefore consider that this constitutes personal data exempt from disclosure under the Freedom of Information Act. We have therefore redacted from the documents the names of staff below the level of Director or equivalent and those of any third parties.

Section 42

Section 42 of the Act exempts information that is protected by legal professional privilege, that is, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Legal professional privilege covers communications between lawyers and their clients (in this case the London Development Agency) for the dominant purposes of seeking or gaining legal advice and of obtaining legal advice on litigation or for lawyers to use in preparing a case. We have identified information which falls within this exemption, but Section 42 is a qualified exemption and as such is subject to the public interest test. We believe that the public interest in withholding this information outweighs the public interest in disclosing this information as the LDA commonly encounters complex issues upon which it may need to seek specialist legal advice. It is important that the LDA has access to full and frank legal advice and that any such advice obtained will be protected by legal privilege. The LDA must have the freedom to

ask for advice in this manner and lawyers must be able to openly provide such advice with the knowledge that it is safeguarded. This right to take and consider legal advice is important to ensure the LDA can meet its legal obligations and duties and balance their complex demands, which must be in the greater public interest.

We have therefore redacted information and in some cases withheld documents in their entirety which are protected by legal professional privilege and are therefore exempt under S42 of the Act.

Section 43(2)

Section 43(2) of the Act exempts information from disclosure if disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

We consider that this exemption is relevant to some information incorporated within the documents requested, as shown above. This information relates to:

- contracts extant and still subject to negotiation;
- financial accounts;
- details of estimated figures relating to the disposal of property.
- tender evaluation documents which contain information about confidential matters such as methodologies, staff expertise and costings.

In general terms, if the redacted information were released to the public it would in our view be likely to either:

- Weaken the commercial position of the LDA in situations involving negotiation of contracts and the sale of property in a competitive market, by revealing details of the negotiating and financial positions of the LDA, which could be of advantage to a third party when negotiating both ongoing and future contracts or sales.
- Detrimentally impact on the commercial position of businesses covered by the information because competitors would become privy to information, such as the finances and working practices of the businesses, to which they otherwise would not have access.
- Damage the Agency's business reputation and the confidence that customers, suppliers and contracting parties may have in submitting tender proposals to the Agency.

The exemption of prejudice to commercial interest is a qualified exemption. This means that we are required to consider whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We consider that the public interest in maintaining the exemption in respect of each piece of redacted information outweighs the public interest in disclosing the information because:

- there is a strong likelihood that commercial prejudice will be suffered by the LDA or third parties, as summarised above.
- disclosure of the information may prevent third parties from providing the LDA with information relating to procurement opportunities in the future, thus undermining the ability of the LDA to perform its functions

We are therefore unable to communicate the exempt information to you and as such it has been redacted from the attached documents.

Please accept our apologies that we have been unable to provide the information in full to date, but please be assured that we are doing everything possible to provide the requested information as soon as is reasonably possible.

If you have any queries in the meantime please do not hesitate to contact us.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. D.', followed by a long horizontal line that tapers off to the right.

Public Liaison Unit
London Development Agency

MAYOR OF LONDON