

DVS Property Specialists for the Public Sector

FOA Mr John Smith
By e-mail to:
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Our Reference 11763243.2/ceo
E Mail : foi@voa.gsi.gov.uk

Date 31 March 2014

Dear Mr Smith,

Freedom of Information Act (FOIA) 2000 – request

Thank you for your request of 2 March 2014 in which you have requested the following information under the above Freedom of Information Act (FOIA);

'I write to request an FOI for all information that the VOA as district valuer for Glasgow city council had at hand for providing a service and valuation for a plot of land in the east end of Glasgow in or around 2006-2008.

The plot of land was named Strathy Park or New Springfield Park (off Williamson St, in the East end of Glasgow). Please see the link below, the picture shows the park as a football field in the bottom right hand corner of the picture. Although when it was sold it was little more than open parkland as the football field had been removed in the late sixties.

<http://www.britainfromabove.org.uk/image/saw045961>

I also request a copy of the geo technical report that was used to assess any abnormalities that the land contained.'

As you are aware by our reply to your other request concerning a plot of land in the east end of Glasgow called Westhorn, the FOIA gives applicants the right of access to information held by the VOA (Valuation Office Agency), including its DVS Property Services business stream, as an executive agency of HM Revenue and Customs.

I confirm that the VOA holds information within scope of your request. However when another law prevents disclosure of information, it is exempt from disclosure because of section 44(1) (a) of the FOIA 2000.

In this instance, the relevant Act is section 23(1) of the Commissioners for Revenue and Customs Act (CRCA) 2005. Information is covered by section 23(1) CRCA if:

- It is held in connection with a function HMRC; and
- It relates to a 'person' who is identified, or who could be identified from the information.

In relation to the first of these points, the VOA is an executive agency of HM Revenue and Customs (HMRC). Our functions are identified in section 10 of CRCA. The information you have requested is therefore held for a function of HMRC.

In relation to the second point, the term 'person'¹ applies not just to individuals, but to any legal entity like Glasgow City Council.

The effect of section 23 of the CRCA is to remove information about our advice to any client from the right of access under FOIA. This is why we state in our Publication Scheme under,

"Information we will not disclose under the Freedom of Information Act 2000 (FOI)".

"Release of information under FOI is release to the world. Public authorities are not allowed to take account of the identity of the person making the request, or their motives, when deciding what information will be disclosed in response to an FOI request."

To carry out its functions the Valuation Office Agency (as part of HM Revenue and Customs HMRC) holds confidential customer information including information on properties. When HMRC was created in April 2005, Parliament decided that any information held for an HMRC function that identifies a 'person', (including legal entities such as limited companies), or which would enable their identity to be deduced, is exempt from disclosure under the FOI regime. The provision is set out in Section 23 of the Commissioners for Revenue and Customs Act (2005) and applies even if the requestor is an individual asking for information we hold about them, or a director asking for our information about their company."

And go on to state:

'District Valuer Services (DVS) is the property services arm of the Valuation Office Agency (VOA), providing professional property advice right across the public sector, including private and third sector clients involved in delivering public services and functions of a public nature. In line with the Information Commissioner's guidance the Agency will always consult with its client before considering whether it is in a position to release any information requested. It may be more appropriate to make a request direct to the respective client, rather than the Agency, when seeking information'

I have provided an Appendix with links to the relevant legislation with extracts of sections quoted in the reply.

Your appeal rights

If you are not happy with this reply you may request a review by writing to The Chief Executive's Office: Customer Service Team, Valuation Office Agency, Wingate House, 93/107 Shaftesbury Avenue, London, W1D 5BU. email: foi@voa.gsi.gov.uk .

You must request a review within 2 months of the date of this letter. It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Valuation Office Agency. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Des Tough

Des Tough
VO Scotland Customer Services Manager

¹ Please see paragraph 110 of the explanatory notes to the CRCA.

Appendix - Freedom of Information Act, 2000 (request)

<http://www.legislation.gov.uk/ukpga/2000/36/contents>

Section 44 Prohibitions on disclosure

- (1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it -
 - (a) is ***prohibited by or under any enactment***,
 - (b) is incompatible with any Community obligation, or
 - (c) would constitute or be punishable as a contempt of court.

Commissioners for Revenue and Customs Act, 2005

<http://www.legislation.gov.uk/ukpga/2005/11/contents>

Section 23 Freedom of information

- (1) Revenue and customs information relating to a person, the disclosure of which is prohibited by section 18(1), is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (c. 36) (prohibitions on disclosure) if its disclosure -
 - (a) would ***specify the identity of the person***² to whom the information relates, or
 - (b) would enable the identity of such a person to be deduced.

Section 18 Confidentiality

- (1) Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs.

(1A) as amended by section 19 (4) of the Borders, Citizenship and Immigration Act (BCIA) 2009

The VOA's (Valuation Office Agency) duty of confidentiality therefore extends to all its customer / client records. Sections 18 (1) and 23 of the CRCA, as amended, taken together, removes information about anyone (or their property) from the right of access under FOIA.

This is explained in our Publication Scheme under, "*Information we will not disclose under the Freedom of Information Act 2000 (FOI)*".

Here is a link: <http://www.voa.gov.uk/corporate/freedomOfInformation.html>

² 'Person' in this context includes both living persons and legal entities like a local authority.

