

[REDACTED]

19 February 2020

**INFORMATION REQUEST REFERENCE 20-004**

Dear [REDACTED]

Thank you for your information request, received on 9 January 2020. You asked the London Legacy Development Corporation (Legacy Corporation) to provide the following information under the Freedom of Information Act 2000 (FOIA):

*“Further to my original request, could you also provide any emails received from or sent to Madison Square Garden Company (and Stratford Garden Development Limited) since the FOI release I found on your website from 6 September 2019.”*

I can confirm that the Legacy Corporation holds information relevant to your request.

Please be advised that emails received from, or sent to Madison Square Garden Company (MSG) about the proposed MSG Sphere from 3 May 2019 to 13 November 2019 have been requested under a separate information request (reference 19-073), therefore the Legacy Corporation is refusing to provide the information covered by this date range under s. 22 – information intended for future publication.

Section 22 - Information intended for future publication.

(1) Information is exempt information if—

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
- (b) the information was already held with a view to such publication at the time when the request for information was made, and
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

All released freedom of information requests are published on our disclosure log on our website after their release: <https://www.queenelizabetholympicpark.co.uk/our-story/the-legacy-corporation/good-governance/publication-scheme/disclosure-log/2019-foi>

Emails received from or sent to \*msg.com from 14 November to 9 January 2020 (date of request) are attached in **Annex A**.

Please note:

- There is a degree of repetition within the correspondence where the emails have diverged at some stage during the email chain.
- All links with the emails have been deactivated. Any email attachments relevant to your request have been inserted behind the specific email.
- Any attachments with the file extension \*.png are just QEOP logos, or other images that are automatically linked to the email. These have not been included.

Please be advised that personal information has been redacted under s.40 – personal information.

Section 40(2) – personal information

*(2) Any information to which a request for information relates is also exempt information if –  
 (a) it constitutes personal data which does not fall within subsection (1), and  
 (b) the first, second or third condition below is satisfied.*

It is the standard practice of the Legacy Corporation to redact personal information for those members of staff under Head of Service level, and for non-Legacy Corporation personnel unless consent to release the information has been received. Phone numbers and signatures have also been redacted.

The section 40 exemption is absolute and is not subject to the public interest test. In this instance, the relevant condition that applies is section 40(2) whereby the information is defined as personal data within s.3(2) of the Data Protection Act 2018.

Information on pages 119 to 121 has been redacted under s.43 – commercial interests.

Section 43 - Commercial interests.

*(1) Information is exempt information if it constitutes a trade secret.*

Section 43(1) is qualified, class based exemption and is subject to the public interest test. The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect).

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation take the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process MSG were contacted for their views.

The information redacted on pages 119 to 121 under s.43(1) – trade secret, is information specifically within the ownership of MSG and which is protected by trademarks and copyright. It contains information that a competitor could not easily re-create or otherwise discover and therefore disclosure of this information would prejudice the commercial interests of MSG.

It is the view of the Legacy Corporation that, at this time, the public interest in withholding the information outweighs the public interest in disclosing it.

Section 43 - Commercial interests.

*(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).*

Section 43(2) is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice our commercial interests or the commercial interests of a third party.

Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor and the purposes for which they could use the information.

In accordance with the statutory Code of Practice issued by the Information Commissioner's Office, as part of the public interest assessment, the Legacy Corporation contacts third parties referenced in the information, to give them the opportunity to provide examples of any harm from their perspective that there may be from releasing the information. Under FOIA, the Legacy Corporation cannot assume what information might be exempt, and therefore any third party that may be affected by disclosure is asked to provide details of the harm that releasing the information would have on its commercial interests. The Legacy Corporation take the views of affected third parties into consideration when undertaking the public interest assessment. In line with this process MSG were contacted for their views.

#### Prejudice to commercial interests

The Legacy Corporation has assessed the impact of releasing the information redacted under the exemption s.43(2) – commercial interests in order to decide whether disclosure would, or would be likely to, prejudice their commercial interests or those of any third party(ies). They have concluded that prejudice to the commercial interests of MSG would be caused by disclosure so the exemption is engaged.

#### Public Interest Test

There is, of course, a public interest in promoting transparency of public authorities' decisions and accountability, however, the disclosure of the information within the pages 119 to 121 would prejudice the commercial interests of MSG because it would release information into the public domain that would otherwise not be available and which could be used by competitors to MSG for their own benefit in developing rival technologies.

It is the view of the Legacy Corporation the public interest in withholding the information outweighs the public interest in disclosing it.

Banking information on pages 128, 175 and 190 has been redacted under s.31(1)(a) – prevention of crime.

Section 31 – law enforcement

*(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-*

*(a) The prevention or detection of crime*

The section 31 exemption is a qualified exemption and subject to the prejudice test and the public interest test. Under the prejudice test we have to consider if disclosure of this information would, or would be likely to, prejudice the prevention of crime. Consideration is also given to the harm disclosing this information would be likely to cause, combined with other information already in the public domain (mosaic effect) or possibly released at a future date (precedent effect). The public interest test considers and balances the public interest in disclosing this information against the public interest in not disclosing this information and uses this assessment to decide whether there is sufficient justification in withholding this information under this exemption.

Information disclosed under the FOIA is considered to be public information, and while there is a presumption towards disclosure, consideration needs to be given as to who will have access to this information beyond the requestor, and the purposes for which they could use the information.

The Legacy Corporation have assessed the impact of releasing the bank details and consider that the public interest would not benefit from this information being released into the public domain. While appropriate checks are in place, releasing the bank details into the public domain would be likely to weaken the system around financial security and therefore prejudice the prevention of crime. It is the view of the Legacy Corporation that the public interest in withholding the information outweighs the public interest in disclosing it.

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If you are unhappy with our response to your request and wish to make a complaint or request an internal review of our decision, you should write to:

Deputy Chief Executive  
London Legacy Development Corporation  
Level 10, 1 Stratford Place  
Montfichet Road  
London, E20 1EJ

Email: [FOI@londonlegacy.co.uk](mailto:FOI@londonlegacy.co.uk)

Please note: complaints and requests for internal review received more than two months after the initial response will not be handled.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website [www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely

FOI / EIR Co-ordinator  
London Legacy Development Corporation