



Access to Information Act 2018 (ATIA)

Appeal Case to the Information Commission, Seychelles

Statement of Recommendations, Findings, Orders, Decisions and Directives as per Part VII, Section 64

Public Body: Seychelles Planning Authority

Address: Independence House Annex, Victoria, Mahe, Seychelles

Scope of the Case

1. The requestor Mr. Robert Grandcourt appealed to the Commission on August 29th 2019 for failure to access a planning and development file.
2. The Commission has considered whether the Planning Authority has complied with its obligations in relation to the Right of Access at Section 8 and the response to a request at Section 11(1) of the ATIA.

Request and Response

3. On July 29th, 2019, the requestor wrote to the Head of the Information Holder (HOIH) and Information Officer (IO) and requested information in the following terms: "I would be grateful if you would provide the following":
 - 3.1 To pursue the file of Mr. Yujie Chen's Development who is a third party.
 - 3.2 The Information Officer of the Planning Authority acknowledged the request on August 14, 2019.
4. The Information officer requested consent to the third party on the August 8th 2019.
5. Mr. Grandcourt advised the Commission on August 29th 2019, that after the third party gave consent, the third party verbally asked the Information Officer to deny access.
6. The Commission's examination and confirmation from Information Officer 5th September 2019 revealed that no third party's approval has been given.
7. According to the Information Commission's investigation, the Head of Information Holder was involved in the Access to Information request from the beginning.

Orders

8. On August 29th, 2019, the Commission requested a right of reply from Information Officer to the requestor and justification as per ATIA for the reason why no reply was provided.
9. Commission requested explanation for the not provided access to information as the timeframe has elapsed.

Directives

10. Pursuant to Section 63 (1)(d) and in conjunction with Section 48 (4)(a and e) of the Access to Information Act, 2018, the Commission orders the Planning Authority to provide a reply to the requestor.

Decision and conclusion (including any steps ordered)

11. The Information Officer did not applied Section 33 (4) which states that, “where a third party does not provide a response under subsection (3) within 10 days of receipt of the intimation or cannot be located after reasonable steps have been taken to do so, the Information Officer may assume that the third party does not object to the information being granted to the requestor.
12. It was determined that the exemption from Section 22 regarding commercial and confidential information of a third party did not apply.
13. The requestor gained access to the file on September 4, 2019.
14. The case was resolved and closed on September 5, 2019.

Reasons for Decision

15. Section 8 of ATIA states that: “subject of this Act, every person has a right to access to information from a public body is the case”
16. Section 11(1) of ATIA states that: “Subject of subsection (2), the Information Officer to whom a request is made under section 9 shall, as soon as reasonably possible, but in any event within 21 days after the request is submitted –
 - (a) Determine whether to grant the request;
 - (b) Notify the requestor of the decision in writing.
17. Section 33 of ATIA states that: “If an Information Officer is considering a request for access to personal information of a natural third party or commercial or confidential information of a third party, the Information Officer shall take reasonable steps to inform the third party to whom or which the information relates or, where the third party is deceased, the next of kin or legal representative of the third party, in writing of the request as soon as reasonably possible, but in any event within eight days after the request is received.