



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: Lands Department

Address: Independence House, 2nd Floor Victoria, Mahe

Scope of the Case

1. The requestor, Ms. Karine Rassool, appealed to the Commission on November 11th 2020, about the Lands Department of Lands failure to provide any clarity on the information requested.
2. The Commission has considered whether the Lands Department of 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 October 7th 2020, the requestor wrote to the Information Officer and requested information in the following terms: "I am writing to you in your capacity as the Information Officer of the Department of Land and Survey to request information under the Access to Information Act (2018); as such, my request is as follows":
 - 3.1 I would like to know who this reliable source is that PS Albert refers to;
 - 3.2 What is the nature of this additional due diligence or investigation being carried out by PS or the Lands department, and what is the outcome of this investigation?
 - 3.3 How are the criteria for ownership of immovable property assessed?
 - 3.4 Proof of the allegations made that Archille and I own immovable property;
 - 3.5 Provide clarity on whether it is possible to own property without having it registered and, if so, how;
 - 3.6 Requesting a copy of the policy that features exemption clauses and procedures in regards to investigations to acquire property.
 - 3.7 Minutes of the meeting of the discussion that we had on September 22nd 2020.
4. The Office of the Information Officer of the Lands Department acknowledged the request on October 20th 2020 with the requestor to gain access to her personal file on November 4th 2020.
5. The requestor was not satisfied with the information seen in her file and received. She requested additional information.
6. The Information Officer acknowledged the additional request for information on November 4th 2020, and advised that the request will be sent to the executive (Head of Information Holder) to clarify the relevant contents of her request.
7. On November 11th 2020, the Head of Information Holder reviewed the request, acknowledged the email, and replied that there are no protocols to ensure that information on files is not divulged, especially when investigations are in process and not yet finalized, depending on the sensitivity of

the matter at hand. The minutes of the meeting have been recorded, but not on your respective files for the same reason.

Orders

8. On November 16th 2020, the Head of Information Holder was issued a notice to provide the requestor with the information requested within 14 days.
9. Following a meeting with the Head of Information Holder on November 24th 2020, it was agreed that the due diligence would be completed and the information would be released.

Directives

10. On December 31st 2020, the Information Commission issued a written order to the Head of Information Holder to produce and provide the information requested to the Appellant "requestor".

Decision and Conclusion (including any steps ordered)

11. Further to the written order, an extension of 14 days was given to comply.
12. The case was filed with the Department of Police on March 2nd 2021, for investigation.
13. The Head of Information Officer was replaced, and the Commission communicated the case with the newly appointed Head of Information Holder on September 9th 2021. It was acknowledged on September 22, 2020.
14. The requestor received the required information and the matter was resolved on March 21st 2022.
15. The case was resolved and closed on March 21st 2022.

Reasons for Decision

16. 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"
17. 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.
18. Section 67 of ATIA states that: "A person who with intent to deny a right of access to information under this Act –
 - (a) destroys, damages or alters information;
 - (b) conceals information;
 - (c) falsifies information or makes a false record;
 - (d) obstructs the performance by an information holder of a duty under this Act;
 - (e) interferes or obstructs the work of the Information Commission; or
 - (f) directs, proposes, counsels or causes any person in any manner to do any of the above, commits an offence and is liable on conviction to imprisonment for a term of 5 years and a fine of SCR200, 000 or with both imprisonment and fine.
19. Pursuant to Section 35 (1) and in conjunction with Section 48 (4)(a to e) of the Access to Information Act, 2018, "the head of the information holder to whom a review application is submitted in accordance with Section 34 shall as soon as reasonably possible, but in any event within 15 days after the review application is received by the Information Officer –
 - (a) make a decision; and
 - (b) notify the requestor or the third party, as the case may be, of that decision in writing."