

Tuesday 20th December 2016

Ms. Margaret Chow
Chief Executive Officer
Urban Development Corporation of Trinidad and Tobago
38-40 Sackville Street
Port of Spain

Attn: Ms Tamica Charles-Phillip

Dear Ms Charles-Phillip

Re: Request for Access to Official Document(s) Under the Freedom of Information Act, 1999

Reference is made to your correspondence dated 25th November 2016. In the said communication your organisation cited Sections 31 and 33(1) (d) of the Freedom of Information Act (FOIA) as reason and justification for refusing the request for Information dated 27th October 2016 made by Disclosure Today.

Based on information in the public domain, the Hotel known as the Hyatt Regency based in Port of Spain was built by the Government of the Republic of Trinidad and Tobago and is also owned by the Government of Trinidad and Tobago. As such I find it difficult to fathom that information relating to the profitability of this venture as well as information in our Request for Information cannot be made available.

While we respect the nature of confidentiality clauses and trade secrets in the sphere of Private Enterprise, it is important to note that in this case we are dealing with an asset that was constructed with Public Monies and is owned by “the people of the Republic of Trinidad and Tobago” through a State Enterprise. As such in this instance we submit that a higher threshold should exist in that accountability of Public Monies and Public Assets.

It is also important to note that UDECOTT is a State Enterprise and therefore is accountable to Corporation Sole via that State Enterprise Monitoring Manual as well as to the citizens of the country via the Public Accounts Enterprises Committee of the Parliament of the Republic.

Indeed I find your response to be very terse and an inappropriate response to a FOIA request. Section 23 (1) (a) of the FOIA it states the public authority shall cause the applicant to be given notice in writing of the decision, and the notice shall “*state the findings on any material fact, referring to the material on which those findings were based, and the reasons for the decision*”. Essentially therefore Public Authorities ought to set out full particulars of their reasons and the factual basis for refusing to provide information requested pursuant to the provisions of the FOIA, rather than simply parrot the statutory grounds as outlined in the Act.

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In your response you stated that having examined Section 35 “no reasonable in UDeCOTT’s possession that any of the circumstances set out in Section 35 of the Act exist”. However a proper reading of Section 35 would indicate that, even if the areas identified in your response does not exist, there exist a second limb that must be examined by Public Authorities. In this part of Section 35 it states “in the circumstances giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so”.

We therefore submit that there was a failure by UDeCOTT to fulfil its obligations under Sections 23 and 35 of the FOIA. In the circumstances we therefore request that, given the reasons outlined above, UDeCOTT re assess their position to deny the request made by Disclosure Today on October 27th 2016. Furthermore if the decision to exempt the requested information stands, kindly indicate the process in making these decisions and the rationale. Additionally we kindly request that you respond to us within 7 days from receipt of this correspondence.

Thank you for your attention in this matter and we look forward to your response.

As always in service of the Public Interest

Regards



Rishi Maharaj
Chief Executive Officer
Disclosure Today