



Request Ref. FOI/164/2015

16 September 2015

Mr Gavin Sheridan

gavinsblog@gmail.com

Dear Mr Sheridan,

I refer to the request which you have made under the Freedom of Information Acts 2014 for records held by this Department.

Following your consultation with the FOI Unit in the Department of Finance, I received a request for,

All correspondence sent to the Department of Finance / Michael Noonan in relation to the sale of 20 Grosvenor Square in London by NAMA. This should include, but not be limited to, direct correspondence and correspondence that the Minister was cc'd on. It should also include correspondence received from all bidders for this building including any correspondence from Jane Tripipatkul or her representatives in relation to how this building was sold by NAMA. It should also include any follow up correspondence between the Department and NAMA on this matter or correspondence between the Department and any bidder for this building.

As outlined in the attached schedule, I have decided to grant your request in part.

Reasons for decision

The relevant FOI exemptions which apply to the records identified are set out in detail in the schedule attached to this letter.

In relation to where a record is indicated as being exempted under **Section 35**, the record concerned contains information given in confidence and on the understanding that it would be treated by it as confidential. The release of such information is exempted under Section 35 of the FOI Act 2014.

In relation to where a record is indicated as being exempted under **Section 36**, the records concerned contain information which is commercially sensitive. The release of such information is exempted under Section 36 of the FOI Act 2014.

In relation to where a record is indicated as being exempted under **Section 37**, the records concerned contain personal information. The release of such information is exempted under Section 37 of the FOI Act 2014.

Schedule of records

A schedule is attached to this letter. It shows all the records located in the Department that are considered to be relevant to your request. The schedule describes each document/record, and indicates whether the record is released in full, released in part or not released.

Access Arrangements

The records are supplied in digital format.

Rights of appeal

You may appeal this decision by writing to the Freedom of Information Unit, Department of Finance, 2 – 4 Merrion Row, Dublin 2 seeking internal review of the matter. Please note that a fee applies for such an appeal. The level of this has been set at €30. Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to the Department of Finance. Please refer to this decision in your letter. You should make your appeal within 4 weeks from the date of this notification; however, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department and the decision will be communicated to you within 3 weeks.

Yours sincerely,



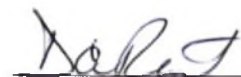
Declan Reid
Dept. of Finance
Financial Services Division

Schedule of Records: Summary of Decision Making

Record No.	Brief Description & Date of record	File Ref.	No. of Pages	Decision: Grant/Part Grant/Refuse	Basis of Refusal - Section of Act	Reason for Decision	Public Interest Considerations (if applicable) (for and against release)	Identify deletions where record is part Refused
1	Email exchange between DoF and NAMA 6th June 2013		2	Part Grant	Section 37	Record contains personal information	The public interest test was applied. However the balance lies in not releasing the record.	Personal Information redacted
2	Letter to NAMA Chairman, cc to Minister for Finance 30th May 2013 (Attachment to record 1 exchange).	13/2690/MF	2	Part Grant	Section 35, Section 36, Section 37	S35 - The record contains information received by the Department of Finance in confidence and on the understanding that it would be treated as confidential S36 - The record contains commercially sensitive information. S37 - Record contains personal information	The public interest test was applied. However the balance lies in not releasing the record.	Personal, confidential and commercially sensitive information redacted
3	Response Letter from Private Secretary.	13/2690/MF	1	Part Grant	Section 37	Record contains personal information	The public interest test was applied. However the balance lies in not releasing the record.	Personal Information redacted

Signed

Date


16/9/15

(Deciding Officer)

David Linehan

From: Sarah Lawless
Sent: 06 June 2013 12:02
To: 'Martin W Whelan'
Subject: RE: Ministerial rep

That should be ok thanks

From: Martin W Whelan [mailto:Martin.W.Whelan@nama.ie]
Sent: 06 June 2013 11:55
To: Lawless, Sarah
Subject: RE: Ministerial rep

Sarah,

Two agents were appointed by NAMA to market and sell this property, which each prospective purchaser was aware of and could feel free to contact. This was a very thorough open market process. The complainant in this case was significantly off the mark from a commercial perspective – put simply, their offer was not sufficient to purchase the property. The sale process was transparently, professionally and successfully managed and generated the appropriate return to the taxpayer.

Let me know if you need more.

Regards,
Martin

From: Lawless, Sarah [mailto:Sarah.Lawless@finance.gov.ie]
Sent: 06 June 2013 11:48
To: Martin W Whelan
Subject: Ministerial rep

Hi Martin

We have received the attached letter from [REDACTED] which was sent to Frank Daly, regarding the sale of the 20 Grosvenor Square, London W1.

I will be drafting a reply stating that the commercial decisions of the Agency are a matter for the board and the Ministers confidence in the sales procedures in place.

Can you provide information regarding this transaction which I can supply to the Minister as background on the transaction and let me know generally how you intend to reply to [REDACTED].

Thanks

Sarah
Sarah Lawless
Shareholding Management Unit,
Department of Finance,
RM B6/7
The Billets,
7-9 Merrion Row,
Dublin 2
01 6045107

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13/2690/IMF

Mr. D. Reid

Referred pl.

Clare 5/6/13



Frank Daly
Chairman
National Asset Management Agency
Treasury Building
Dublin 2



PRIVATE & CONFIDENTIAL

30 May 2013

Dear Mr Daly

Re: 20 Grosvenor Square, London W1 ("the Property")

I understand that the contract for the sale of the above Property was recently awarded on behalf of the National Asset Management Agency (NAMA) acting under the powers conferred on it by the National Asset Management Agency Act 2009 ("the 2009 Act"). The contract was awarded following a bidding process and I write now as representative of one of the bidders in that process. The process was conducted on NAMA's behalf by Knight Frank/CBRE.

We have become aware of allegations that the bidding process for the sale of the Property was not conducted in a fair and transparent manner. In particular we have heard that:

1. Knight Frank may have acted in concert with the legal owner of the Property, and that both Knight Frank and the legal owner favoured the bid by the party which we understand was ultimately successful in being given the opportunity to enter into the contract for the purchase of the Property.
2. We understand the successful bidders were given this opportunity based on their initial bid, despite allegations that:
 - a. They were allegedly acting in concert with the legal owner of the Property. Indeed we have heard a suggestion that the seller will continue to retain a significant beneficial interest in the Property following its sale. We are advised that such an arrangement would be in breach of the 2009 Act and, if this is true, we would contend that the sale be terminated immediately.
 - b. As bidders we were informed that there were to be at least two rounds of bids. There was no second round of bidding. We understand that the successful bidders were awarded the contract to purchase the Property based on their initial bid and understand that other bidders will confirm this. We further understand they were not the highest bidder at this stage of the process.

In our view the bid was conducted so as to deter other bidders. Knight Frank on occasion refused to take calls or have any meetings regarding the Property and made it difficult to inspect in the two weeks prior to the first round of bids being lodged. Knight Frank did not return any calls from us or our solicitors or, so far as we are aware, from the other bidders after we had lodged our initial bid.

We were assured by Mr John Collison of NAMA that a bid of [REDACTED] (our initial bid) would give us the opportunity to participate in the second round of bids.

We further understand that even proof of funds may have been a misrepresentation of the facts and that they should have been excluded from the process on that basis. Since 2011, and at considerable expense, I have engaged with your colleague, Mr Paul Hennigan, regarding the Property. Mr Hennigan explained to us that NAMA had entered into a period of exclusivity with another party and if that situation was ever to change the Property would be offered for sale in an open and transparent process. This was also confirmed by Mr John Mulcahy at various meetings I had with them both in Dublin and London.

As Mr Hennigan and Mr Mulcahy will confirm, we have pursued the acquisition of the Property on behalf of one of the wealthiest and most high profile investors from Thailand who committed considerable funds towards his aim of acquiring the Property and did so in the belief that that the sale process would be fair.

Naturally an investor will of course accept being an under-bidder in a fair and transparent sales process but believes that this was neither.

Given the seriousness of the allegations I have received I should therefore be grateful if you would look into these matters urgently and I look forward to your prompt reply.

Yours sincerely

A large black rectangular redaction box covering the signature of the sender.

cc. Minister of Finance Mr. Michael Noonan T.D., Department of Finance.
cc. Mr Brendan McDonagh, Chief Executive, National Asset Management Agency.

Ref: 13/2690/MF

27 August 2013



Dear 

The Minister for Finance, Mr Michael Noonan TD, has asked me to refer to your letter of the 30th of May 2013, which was addressed to Mr Frank Daly, Chairman in NAMA.

NAMA has advised that it has very clear rules regarding the open marketing of loans and all such sales are conducted in line with accepted international best practice. In line with this practice, as part of the formal loan sales process, potential purchasers are required to provide an undertaking that they will not engage with the debtor or other obligors at any stage during the sales process. Both debtors and potential purchasers are aware that the infringement of agreed protocols or undertakings may have an impact on NAMA's decisions as to whether and to whom it sells a particular portfolio. Furthermore, where NAMA approves the sale of any loan or approves the sale of any secured property by a debtor, it requires a confirmation that the purchaser is not connected to the debtor or other obligors.

NAMA has been established as a fully commercial agency to operate under the direction of a Board of Directors by the NAMA Act. Section 221 of the NAMA Act, makes it an offence to communicate with NAMA with the intention of influencing the making of a decision in relation to the performance of its functions. It would therefore be inappropriate for the Minister or his officials to attempt to influence commercial decisions of the Agency.

With that in mind, I am informed by NAMA that they have also responded to your letter with information which may help clarify the situation.

I hope this information is of assistance to you.

Yours sincerely

ALEX LALOR

Alex Lalor
Private Secretary