

Department/Organisation: Lands Department (“LandsD”)

Case concluded in: July 2018

LandsD refused to provide squatter inspection records

The Event

Mr Y was a reporter from a media organisation. He had written to LandsD several times to ask about the inspections conducted by its Squatter Control Offices (“SCOs”), and was then provided the information. Afterwards, he made a request to LandsD under the Code on Access to Information (“the Code”) for the inspection records of SCO A and SCO B on four particular days, including the time logs of the staff’s vehicles leaving and returning to offices and the time of inspections at each inspection point (collectively referred to as the “Requested Information”).

LandsD rejected Mr Y’s information request by invoking paragraphs 2.6(a) (“information the disclosure of which would harm or prejudice the administration of justice, including the conduct of any trial and the enforcement or administration of the law”) and 2.6(e) (“information the disclosure of which would harm or prejudice the prevention, investigation and detection of crimes and offences...”) of the Code. LandsD explained to us that it had already provided Mr Y with the inspection records of SCO A and SCO B of two of the four particular days aforementioned at his previous request. In LandsD’s opinion, disclosure of more of the Requested Information would enable Mr Y to integrate that with the information already provided to him and compile certain information that would undermine the effectiveness of the Department’s law enforcement. If details of inspection points, routes and schedules were made available to the public, LandsD’s law enforcement might be prejudiced.

Our Findings

Paragraph 2.1.1 of the Guidelines on Interpretation and Application of the Code stipulates that where provisions of Part 2 relating to the “harm or prejudice test” (including paragraphs 2.6(a) and 2.6(e) of the Code) are applicable, the Government department concerned has to consider whether the public interest in disclosure of such information outweighs any harm or prejudice that could result from disclosure.

We are of the view that the media are watchdogs of Government operations, and hence Government departments should cooperate as far as possible. As a member of the media, Mr Y asked for the Requested Information to better understand how and how well LandsD exercised its squatter control. Obviously, that concerned public interest.

What Mr Y requested was merely records of inspections conducted by some teams of LandsD on a few days (and LandsD had already provided part of the Requested Information). The Requested Information was neither about LandsD's inspection plans to be executed nor about irregularities of certain squatter structures, findings of inspections and/or enforcement actions to be taken by LandsD. With the Requested Information being so limited, we doubted whether Mr Y could "integrate that with the information already provided to him and compile certain information that would undermine the effectiveness of LandsD's law enforcement". Besides, before Mr Y made the information request, the media organisation that he worked for had already disclosed to the public part of the information, and there was no sign of any harm or prejudice to the administration of justice or law enforcement by LandsD resulting from that.

Outcome

Following our recommendation, LandsD provided Mr Y with the Requested Information.