

Our Ref: ACW/2
FOI No.: 89791



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**CAYMAN ISLANDS
GOVERNMENT**

**Ministry of
Commerce, Planning & Infrastructure (CPI)**

September 8, 2020

Mr. Alric Lindsay
Email: alric@caymanfs.com

Decision Letter - FOI Request 89791

Dear Mr. Lindsay,

Thank you for your application dated 24-JUN-20, received by us on 24-JUN-20. Your application requested the following information:

1. Signed minutes of all department meetings where The Smith Barcadere Redevelopment Project was discussed and/or approved and/or authorized.
2. Confirmation whether any exemptions were granted at any time whatsoever in connection with The Smith Barcadere Redevelopment Project
3. If any exemptions were granted, please provide copies of signed minutes of meetings recording such exemptions.
4. Confirmation whether a committee was established in connection with The Smith Barcadere Redevelopment Project.
5. If a committee was established:
 - a. Please confirm the date of establishment of the committee
 - b. Please confirm the names of members of the committee
 - c. Please confirm roles and posts held by members of the committee
 - d. Please provide the details of remuneration paid to members of committee
 - e. Copies of all minutes of meetings of the committee
 - f. Copies of all memos of the committee
6. Amounts contemplated (at the time of consideration of The Smith Barcadere Redevelopment Project) to be expended or allocated to The Smith Barcadere Redevelopment Project.
7. Number of phases contemplated for The Smith Barcadere Redevelopment Project.

8. Name of ministry or department whose budget the amounts were contemplated to be expended or allocated from.
9. Date of approval of budget in relation to amounts contemplated to be expended or allocated to The Smith Barcadere Redevelopment Project.
10. Names of all parties that submitted bids in connection with The Smith Barcadere Redevelopment Project and the estimates provided by those parties.
11. Confirmation whether any bids were approved and details of such bids.
12. Copies of minutes of meetings where it was determined to discontinue or defer The Smith Barcadere Redevelopment Project, together with written reasons for discontinuation or deferral
13. Details of the legislation and/or policies and/or procedures considered and/or applied in connection with the approval of The Smith Barcadere Redevelopment Project

I have considered your application for information on behalf of the Ministry of Commerce, Planning & Infrastructure, the Public Works Department, Department of Environment and the Department of Planning. The effort was to coordinate a single release of all information related to your request and give a proper narrative framing of the project although not specifically required under the FOI Law. In large part you have been given access to all documents other than:

1. Construction drawings produced by subcontracted engineers for the project.
2. The draft ESTAR report for phase 1 of the Smith's Barcadere redevelopment as the project was canceled shortly after the bid window closed and the ESTAR report was not finalized or signed by the evaluation committee and is therefore a draft.
3. Specific values break downs of tender or contract documents.
4. Unreasonable disclosure of personal information.
5. Records related to Cabinet's deliberations.

As you are probably aware there was a previous FOI request related to this project that specifically requested:

- The date of commencement of the committee
- All members current and past, their positions and their conflicts of interests
- How committee members were selected
- Agenda of all meetings
- Minutes of all meetings
- Action points resulting from meetings
- Dates of all meetings held
- Correspondence such as memo's, notifications and emails between the committee members regarding this subject
- The terms of reference or similar documentation which specifies the need for the committee, goals,

- how members were selected, how decisions are made, requirements for public consultation
- What if any public funding budget is allocated to the committee members to spend and the business case supporting the value for money of allocation of public resources to this committee
- Remuneration of committee members

In response to this specific request no specific physical document exists that represents the requested information. Unfortunately due to the specifics of the request many records held did not match the scope of the request. Although there is no written record marking the formation of the Smith's Barcadere Re- Development Committee its members did meet with a Civil Service technical design committee for the project and those records have been included in this release.

The release is organized in a chronological order of events and shows changes in design scope after being presented to the public at the South Sound Community Centre. The following decisions have been made as it relates to your specific requests:

Q1: 1. Signed minutes of all department meetings where The Smith Barcadere Redevelopment Project was discussed and/or approved and/or authorized.

Access Granted

Minutes of Meetings of the technical committee are attached, along with commentaries by the Department of Environment. Cabinet meeting minutes and documents related to their deliberations are exempt under FOI Law.

Q2: Confirmation whether any exemptions were granted at any time whatsoever in connection with The Smith Barcadere Redevelopment Project

Access Granted

A Section 53 Exemption of Planning Permission under the Development and Planning Law was granted. Cabinet meeting minutes and documents related to their deliberations are exempt under FOI Law. Please find attached a Memo to the Director of the Department of Planning related to this effect.

Q3: If any exemptions were granted, please provide copies of signed minutes of meetings recording such exemptions.

Access Granted

See attached Memo regarding Section 53 Planning Exemption.

Q4: Confirmation whether a committee was established in connection with The Smith Barcadere Redevelopment Project.

No Records Exist

There are no specific written document that exist which represent the formation of the Smith's Barcadere Re- Development Committee but the committee reviewed designs produced by the Civil Servants led technical design committee and gave direction. In an online video of a public meeting held at the South Sound Community Center on July 3, 2018, the members are mentioned.

Q5 Answers:

If a committee was established:

- a. Please confirm the date of establishment of the committee-
No written record exist
- b. Please confirm the names of members of the committee
No written record exist
- c. Please confirm roles and posts held by members of the committee
On the ESTAR reports for subcontracted drawing and design services the chairman of the Smith's Barcadere Re- Development Committee is identified. No other written records exist to our knowledge.
- d. Please provide the details of remuneration paid to members of committee
No remuneration was paid to committee members in connection with this project.
- e. Copies of all minutes of meetings of the committee
Minutes of the technical design committee have been attached. In all other meetings directives were given verbally and acted upon.
- f. Copies of all memos of the committee
No written record exist

Q6: Amounts contemplated (at the time of consideration of The Smith Barcadere Redevelopment Project) to be expended or allocated to The Smith Barcadere Redevelopment Project.

Exempt

As explained further in response to question 10 as no specific award was granted for this project the pretender estimates, both in the breakdowns and totals, still hold commercial value to CI Government. We can confirm that the pre tender estimate for phase 1 lies within the range of \$750K to \$1.35 million for the works scoped in the tender.

Q7: Number of phases contemplated for The Smith Barcadere Redevelopment Project.

Access Granted

The Smith Barcadere Project was to be carried out in three (3) phases. Please see attached QS Estimate dated the Mar- 2019.

Q8: Name of ministry or department whose budget the amounts were contemplated to be expended or allocated from.

Exempt

Under section 19 of the FOI Law, records relating to the deliberations of Cabinet are exempt. However we can confirm that it was envisaged that this project was to be partially funded by Government and partially by the private sector through fund raising efforts. The funds were to be taken from the Ministry of CPI's budget appropriation EA142 which was allotted \$1 million dollars in 2020 and also for the 2021 budget cycles. We also wish to note that spending of funds from budgeted capital does not need the expressed approval of Cabinet to be initiated; however approval of both the Minister and the Chief Officer responsible is necessary for the disbursement of funds from capital votes.

Q9: Date of approval of budget in relation to amounts contemplated to be expended or allocated to The Smith Barcadere Redevelopment Project

Exempt

In 2018 Cabinet approved an exemption from Planning Permission for the project and the use of funding from the EA 142 appropriation. Although the project's scope of works developed from this initial genesis, in 2020 the vote was adequately funded to accommodate the project. Under section 19 of the FOI Law, records relating to the deliberations of Cabinet are exempt.

Q10: Names of all parties that submitted bids in connection with The Smith Barcadere Redevelopment Project and the estimates provided by those parties.

Exempt

Under the Procurement Law 2016 when an award is made to a successful bidder a statement of the award mentioning the contractor and the contract value is shared with the unsuccessful bidders. In this case the RFQ for Phase 1 of the construction project was canceled after the bid window closed but before an award was made. Therefore all bids and pretender estimates related to Phase 1 are considered sensitive and still hold commercial value to CI Government. Tender documents related to the hiring of design

firms for the production of structural and civil engineering and electrical and plumbing drawings have been included in the release with the relevant sections that contain commercial interest to government removed.

Q11: Confirmation whether any bids were approved and details of such bids.

No Records Exist

The RFQ process for Phase 1 of the project did not result in an award to a contractor.

Q12: Copies of minutes of meetings where it was determined to discontinue or defer The Smith Barcadere Redevelopment Project, together with written reasons for discontinuation or deferral.

Partial Access Granted

The email notification sent by PWD to discontinue the project has been released to you; the names of company representatives have been removed as they add no value to the relevant information provided.

Q13: Details of the legislation and/or policies and/or procedures considered and/or applied in connection with the approval of The Smith Barcadere Redevelopment Project.

Access Granted

A Section 53 Exemption for Planning Permission under the Development and Planning Law, 2017 Revision was granted. Please find attached a Memo to the Director of the Department of Planning related to this effect.

The full list of documents being released (along with placeholders of events) and redactions applied are listed in Appendix 1.

Under Section 33 of the Freedom of Information Law, you may ask for an Internal Review of this response to your request, under either of the following relevant points;

- a) Refusing to grant access;
- b) Granting partial access to the record(s) specified in your application;
- c) Deferring the grant of access to the document;
- d) Refusal to amend or annotate an official document containing personal information;
- e) Charging a fee for action taken or as to the amount of the fee charged; where the decision was taken by a person other than the responsible Minister, Chief Officer or Principal Officer of the Public Authority.

You have thirty (30) days from the date of receipt of this Notice in which to request an Internal Review, by writing to the Chief Officer of Ministry CPI at the email address alan.jones@gov.ky.

Please include the following information;

- 1) A copy of your Application and/or your reference number (FOI#89791);
- 2) Your name and contact details;
- 3) A copy of this letter; and
- 4) If so inclined, the basis on which you are requesting a Review of the decision indicated.

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If upon Internal Review, the decision is still not favorable to you, you have the right under Section 42 of the Freedom of Information Law to appeal to the Office of the Ombudsman within thirty (30) days of;

- 1) The date of notification of the decision taken at Internal Review;
- 2) A decision taken by a responsible Minister, Chief Officer or Principal Officer of the public authority;
or
- 3) The date on which you should have been notified of the decision referred to above but which you received no notification.
- 4) Contact details for the Office of the Ombudsman are as follows:

Ombudsman: Ms. Sandy Hermiston,
email: info@ombudsman.ky;
website: www.ombudsman.ky;
telephone: 1-345-946-6283

Feel free to let me know if I can be of any further assistance.

Yours sincerely,



Leah S. Watson

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And



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