

24 September 2013

Thomas Beagle
C/- FYI.org.nz

By email to: fyi-request-1090-23da046d@requests.fyi.org.nz and
fyi-request-1091-24577408@requests.fyi.org.nz

Dear Mr Beagle

Thank you for your email, received by the Issues Resolution Office on 16 September 2013, with your repeated request for the information originally requested on 21 August 2013, as below:

“I understand that a list of buildings in Wellington with similar construction to the collapsed CTV building in Christchurch has been created.

Please send me a copy of this list.”

In your 16 September 2013 email, you made the following three points:

- 1. Refusals under section 7 of the LGOIMA are subject to the public interest. I submit that there is a strong public interest in knowing which buildings are at risk of catastrophic failure in a major earthquake. Have you taken the public interest appropriately into account when making your decision?***
- 2. The WCC has claimed that publication of the list may "prejudice the commercial position of the person who is subject of the information", however the subjects of the list are buildings and they cannot be considered to be people. As such, section 7(2)(b)(ii) as quoted by the council can not be said to apply.***
- 3. Finally, even if there was an effect on the commercial position of the owners of the buildings, could this be said to be "...likely unreasonably to prejudice..."? Any changes in valuation based on better knowledge would surely have to be counted as entirely reasonable, not unreasonable. Once again, section 7(2)(b)(ii) can not be said to apply in this case.***

The Public Interest test was applied appropriately to your request and the withheld information by the Council. The Council is confident that withholding the requested information is appropriate at this time.

As was advised to you on the WCC Watch website (www.wccwatch.wordpress.com), by the Council's Principal Advisor, Media, Richard MacLean, there is currently no indication, or proof, that the buildings on the withheld list have similar problems to the CTV building in Christchurch.



The Council is not going to provide a list of buildings that may, or may not, have issues, at a time when the owners of the buildings have engaged civil and structural engineers to ascertain whether such issues exist. That would not be in the public interest.

Your concerns with regard to safety are considered by the Council to be covered by the 'section 124 Notice' process and the ability to obtain a Land Information memorandum report on any given property.

The owner of a building can be readily located once you have the details of the building itself, and it is the owners of the buildings that are referred to in the Council's decision to withhold the information to prevent prejudice to "*the commercial position of the person who is the subject of the information*". As such, LGOIMA section 7(2)(b)(ii) does apply.

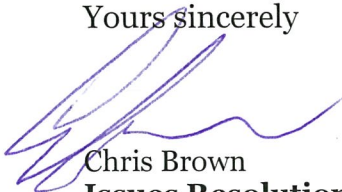
Additionally, a change in valuation of a building is not the only effect to the commercial position of the building owner that could arise from the release of unconfirmed information. You also need to take into account rentals, both commercial and residential, both current and ongoing, and there are other factors too. Accordingly, the Council is confident that LGOIMA section 7(2)(b)(ii) applies in this case.

The Council's original decision, provided on 16 September 2013, is confirmed, namely that the information requested is withheld under the Local Government Official Information and Meetings Act 1987 (LGOIMA), **section 7(2)(b)(ii)**, *to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who is the subject of the information.*

As I advised previously, if you disagree with this decision, you can apply in writing to the Ombudsman to have the decision investigated and reviewed under section 27 (3) of the Local Government Official Information and Meetings Act 1987.

Please contact me if you have any questions.

Yours sincerely



Chris Brown
Issues Resolution Office
Wellington City Council
Ph: (04) 801 3479
Email: chris.brown@wcc.govt.nz