

Empire State Development

May 16, 2013

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Adam Butschek
Deputy Director of Investigations
Cause of Action
1919 Pennsylvania Avenue, N.W.
Suite 650
Washington, D.C. 20006

Re: Freedom of Information Law
Request
Dated April 17, 2013

Dear Mr. Butschek:

You submitted a FOIL request dated April 17, 2013 to ESD in which you requested "all records of communications, including e-mails, from January 1, 2003 to December 8, 2006 to or from any employee of ESDC and any employee, agent, contractor, consultant or lobbyist of FCRC."

Enclosed please find copies of those discloseable documents from ESD's files that are responsive thereto, inclusive of the following:

- Certain e-mail correspondence by and between ESD and employees, agents, contractors, consultants or lobbyists of FCRC;
- Memo dated September 28, 2006 from David Berliner to Steven Matlin regarding significant investors; and
- Memo dated October 10, 2006 from Michael Schenider to Stephen Lefkowitz regarding payment bonds.

Please be advised that certain responsive documents have been withheld from disclosure pursuant to section 87, subsection 2, subdivisions (c) and (d) of the Freedom of Information Law (Public Officers Law, section 84, et seq.), which provides that an agency may deny access to records or portions thereof that:

“(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations; and/or

(d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise. ”

The appeals officer to whom to direct an appeal of this determination is Maria Cassidy, Deputy General Counsel of New York State Urban Development Corporation d/b/a Empire State Development, 633 Third Avenue, 37th Floor, New York, NY 10017.

The rules governing access to records of the Corporation specify that there is a charge for the reproduction of documents. The enclosed DVD requires payment of a \$25.00 fee. Please send a check in that amount payable to the New York State Urban Development Corporation d/b/a Empire State Development to my attention at your earliest convenience.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Lisa S. Lim".

Lisa S. Lim
Senior Counsel