



FREEDOM OF INFORMATION ACT APPEAL

By Facsimile to 202-772-9337 and First Class Mail

October 23, 2015

Office of the General Counsel
Securities and Exchange Commission
100 F Street N.E.
Mail Stop 9612
Washington, D.C. 20549

Securities and Exchange Commission
Office of FOIA Services
ATTN: FOIA Appeals
100 F Street N.E., Mail Stop 2465
Washington, DC 20549

Re: Appeal of Decision in Relation to FOIA Request No. 15-01819-FOIA
(15-00302-APPS, and 15-00052-REMD)

Dear Madam or Sir:

By this letter, as attorney for Richard Edelman, I serve notice that Mr. Edelman is appealing all adverse decisions of the FOIA Office as stated in its letter of September 28, 2015, a copy of which is attached hereto as Attachment 1 and incorporated herein by reference, in relation to FOIA Request No. 15-01819-FOIA, a copy of which is attached hereto as Attachment 2 and incorporated herein by reference.

Mr. Edelman is also appealing all adverse decisions of the FOIA Office as stated in its letter of March 19, 2015, a copy of which is attached hereto as Attachment 3 and incorporated herein by reference, including the decision that Mr. Edelman is a “commercial” requester.”

Sincerely,

Gary J. Aguirre

Enclosures

Attachment 1



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

September 28, 2015

Mr. Richard Edelman
Empire State Building Associates LLC
608 N. Rios Avenue
Solana Beach, CA 92075

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request Nos. 15-01819-FOIA, 15-00302-APPS, and
15-00052-REMD

Dear Mr. Edelman:

This letter responds to your request, dated and received in this office on February 9, 2015, for all documents, records, material of any nature concerning investigation in the matter of Empire State Realty Trust MNY-08894, including wells notices and wells submissions, from January 1, 2012 to February 9, 2015.

Reference is also made to your June 1, 2015 appeal to the SEC's Office of the General Counsel (15-00302-APPS), and the remand of your request to this office dated June 23, 2015 (15-00052-REMD).

We have identified the enclosed 1,442 pages of records as being responsive to your request. Access is granted to these records, except for certain information that is protected from release pursuant to 5 U.S.C. § 552(b)(4), (5), (6) and/or (7)(C), 17 CFR § 200.80(b)(4), (5), (6) and/or (ii), for the following reasons:

- Exemption 4 protects confidential commercial or financial information, the release of which could cause substantial competitive harm to the submitter.
- Exemption 5 protects records that were prepared in anticipation of litigation, form an integral part of the SEC's pre-decisional process, and/or contain advice given to the Commission or senior staff by the Commission's attorneys. Such records are protected from release by the attorney work-product, deliberative process and/or attorney-client privileges embodied in Exemption 5.

Mr. Richard Edelman
September 28, 2015
Page 2

15-01819-FOIA,
15-00302-APPS, and
15-00052-REMD

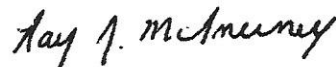
- Exemption 6 protects records that would constitute a clearly unwarranted invasion of personal privacy if released.
- Exemption 7(C) protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision within 90 calendar days from the date of this letter to our General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5) and (6). Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

If you have any questions, please contact Jason Luetkenhaus of my staff at luetkenhausj@sec.gov or (202) 551-8352. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,



Ray J. McInerney
FOIA Branch Chief

Enclosures

Attachment 2

[Print](#)[Close](#)

FOIA 2/9/15

From: **richard** (richardedelman@hotmail.com)

Sent: Mon 2/09/15 10:15 AM

To: empirestatebuildinginvestors@gmail.com (empirestatebuildinginvestors@gmail.com); richard (richardedelman@hotmail.com)

Thank you for taking the time to submit your request.

Your request was received on February 9, 2015. If you need to change or cancel your request, please email us at foiapa@sec.gov. DO NOT RESPOND TO THIS NOTICE!

Your request will be assigned to one of our specialists who will respond to you within 20 days.

Please note that all companies, foreign and domestic, are required to file registration statements, periodic reports and other filings electronically through EDGAR. Anyone can access and download this information for free by accessing www.sec.gov SEC Filings and Forms (EDGAR) or [Company Search](#).

Further, the Commission is not a research service. Please use a securities industry research service for voluminous or commercial requests.

Please save this page for your records.

Request received from:

Richard Edelman
608 N.Rios Ave
Solana Beach, California 92075
United States

8589229680
empirestatebuildinginvestors@gmail.com
Empirestatebuildinginvestors.com

Request:

COMP_NAME: Empire State Realty Trust Inc.

DOC_DATE: 01/01/12-02/09/15

TYPE: Investigations

COMMENTS: I request all documents, records, material of any nature concerning investigation in the matter of Empire State Realty Trust MNY-08894. This would include Wells Notices and Wells Submissions in response. This FOIA also requests similar documents of any other SEC investigation concerning Empire State State Realty Trust.

FEE_AUTHORIZED: Willing to Pay \$28

FEE_WAIVER_REQUESTED: No

EXPEDITED_SERVICE_REQUESTED: No

https://tts.sec.gov/cgi-bin/request_public_docs

Attachment 3



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

March 19, 2015

Mr. Richard Edelman
Empire State Building Associates LLC
608 N. Rios Ave
Solana Beach, CA 92075

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 15-01819-FOIA

Dear Mr. Edelman:

This letter is in reference to your request, dated and received in this office on February 9, 2015, for all documents, records, material of any nature, including Wells Notices and Wells Submissions, concerning the investigation in the matter of Empire State Realty Trust MNY-08894. You are also seeking similar documents of any other SEC investigation concerning Empire State Realty Trust.

We have identified 3 boxes of records that are responsive to your request. Under the FOIA, you are considered a "Commercial" requester. As such, you are required to pay all search and review fees beyond the first one-half hour, in accordance with our fee schedule.¹ We typically estimate that it will take approximately 4 hours to review the contents of 1 box of records (approximately 3,000 pages per box) for releasability under the FOIA. However, it could take up to 8 hours per box depending on the subject matter. Therefore, our preliminary estimate at this point is anywhere from 12 to 24 hours of review time, which equates to a cost between \$336.00 and \$672.00. Additionally, you will also be responsible for the cost of copying all releasable records at a rate of \$0.24 per page.

¹ All search and review time beyond the first one-half hour that is free of charge to you is charged at a rate of \$28.00 per hour. Note, you will be charged fees even if the data located is subsequently determined to be exempt under the FOIA.

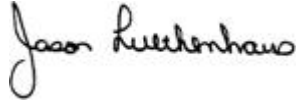
Mr. Richard Edelman
March 19, 2015
Page 2

15-01819-FOIA

However, you have only authorized up to \$28.00 in FOIA processing fees. If you would like for us to review the 3 boxes of records we located for possible release under the FOIA, please write or call me by **March 30, 2015** and confirm your commitment to pay the estimated processing fees. If we do not hear from you by that date we will assume that you are no longer interested in pursuing this request, and we will close our file on it without further notice to you.

If you have any questions, please contact me at luetkenhausj@sec.gov or (202) 551-8352. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

A handwritten signature in black ink that reads "Jason Luetkenhaus". The signature is written in a cursive style with a large initial "J".

Jason Luetkenhaus
FOIA Lead Research Specialist

Attachment 3



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

March 19, 2015

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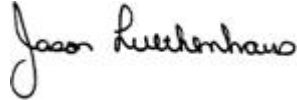
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15-01819-FOIA

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Sincerely,

A handwritten signature in black ink that reads "Jason Luetkenhaus". The signature is written in a cursive style with a large initial "J".

Jason Luetkenhaus
FOIA Lead Research Specialist

From: send@mail.efax.com
To: maria@aguirrelawapc.com
Subject: Successful transmission to 12027729337. Re: FREEDOM OF INFORMATION ACT APPEAL
Date: Friday, October 23, 2015 8:27:33 AM

eFax_Faxing_Simplified



Dear Maria,



Re: FREEDOM OF INFORMATION ACT APPEAL

The 14 page fax you sent through eFax.com to 12027729337 was successfully transmitted at 2015-10-23 15:27:33 (GMT).

The length of transmission was 781 seconds.

The receiving machine's fax ID: 2027729336

If you need assistance, please visit our online help center at <https://www.efax.com/help/faq>.

Thank you for using the eFax service.

Best Regards,
eFax.com

Customer Service

Online Help: <https://www.efax.com/help-center/faq>

Tel: 323-817-3205 (US) or 353 1 656 4910 (EU)

Email: help@mail.efax.com

Reference ID:



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