



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

Office of FOIA Services

December 22, 2015

Mr. Gary Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552  
Request Nos. 15-01819-FOIA, 15-00302-APPS,  
15-00052-REMD, 16-00069-APPS, and 16-00013-REMD

Dear Mr. Aguirre:

This letter amends our September 28, 2015 final response to your client Mr. Edelman's FOIA 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 client's June 1, 2015 appeal to the SEC's Office of the General Counsel regarding the timelines of our office's response to his request (15-00302-APPS), and the remand of his request to this office dated June 23, 2015 for processing as expeditiously as possible (15-00052-REMD). Further reference is made to your October 23, 2015 appeal of all adverse decisions by this office regarding your client's request (16-00069-APPS), and the remand of your client's request to this office dated December 2, 2015 asking us to conduct a search and review of any additional responsive records, further examine the responsive documents initially identified and the applicability of the exemptions we asserted, and reconsider how to classify your client for FOIA processing fees purposes (16-00013-REMD).

With respect to the portion of the remand asking this office to further examine the 1,442 pages of responsive documents that were initially identified and the applicability of the exemptions we asserted, please note that we inadvertently cited exemption (b)(5) for certain portions of the records where we should have asserted Exemptions (b)(6) and (7)(C) instead. We have made the appropriate corrections to pages 1264 and 1265

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on the enclosed CD, and are providing you with a new copy of all 1,442 pages of responsive records that were previously identified. Please refer to our September 28, 2015 letter for the appeal instructions regarding the withholdings in these records.

With respect to the portion of the remand asking this office to reconsider how to classify your client for FOIA processing fees purposes, we have determined that Mr. Edelman is a "commercial" requester. 17 CFR § 200.80 (e)(10)(ii). As such, he will be required to pay all search, review and duplication fees incurred in the processing of his request/remand.

With respect to the portion of the remand asking this office to conduct a search and review of any additional responsive records, please be advised that we are still consulting with other SEC staff regarding additional records that may be responsive to your request. Some records may also be subject to Confidential Treatment (CT) requests which must be considered before a final release determination can be made. We will advise you of our findings as soon as we receive a response and any relevant CT issues have been resolved.

In the interim, if you have any questions, please contact Jason Luetkenhaus of my staff at [luetkenhausj@sec.gov](mailto:luetkenhausj@sec.gov) or (202) 551-8352. You may also contact me at [foiapa@sec.gov](mailto:foiapa@sec.gov) or (202) 551-7900.

Sincerely,



Ray J. McInerney  
FOIA Branch Chief

Enclosure