

BY COURIER

Ref: PILAP/HO/2020/475

Dated: 09 December, 2020

**Mr. Zahid Abdullah
Information Commissioner,
Pakistan Information Commission,
1st Floor, National Arcade, 4-A Plaza,
F-8 Markaz, Islamabad**

RE: CANTONMENT BOARD CLIFTON'S REPLY TO APPLICATION UNDER RIGHT OF ACCESS TO INFORMATION ACT, 2017

Dear Sir,

The Public Interest Law Association of Pakistan (PILAP) is a public interest association registered under the laws of Pakistan and is concerned with addressing issues of public interest in accordance with the Fundamental Rights guaranteed by the Constitution of Pakistan. Our organization requested information from Cantonment Board Clifton (CBC) on a proposed development project planned along a stretch of Seaview Beach, Karachi. The request was made under the Right of Access to Information Act, 2017 through an Application ("RTI Application") dated 6th July, 2020 (attached for your reference). Not having received a response within the 10 working day time period stipulated by the 2017 Act, PILAP then submitted an appeal for non-provision of information with your respected office. Thereafter, at the instigation of the Pakistan Information Commission ("the Commission"), CBC supplied the Commission with a letter dated 24th August, 2020, received at our office on 26th October 2020 via letter dated 15th October, 2020 from the Commission. CBC's letter ostensibly responds to PILAP's questions in its RTI. PILAP, not being satisfied with the response from CBC, submits as under:

1. That PILAP's RTI application dated 6th July, 2020 relates to a proposed development project along a stretch of Seaview Beach, Karachi, planned to be undertaken by CBC. Given the fact that the project is planned along the coast and would involve land reclamation, it will impact the water quality, marine life and the ecosystem along the coastline. The project would also generate large amounts of waste, during and after construction. In an article published in Dawn on 5th July, 2020, a Senior Director at World-Wide Fund for Nature-Pakistan is quoted to have said that the project is "a recipe for an ecological disaster as large concrete structures along the coastline have shown to impact sea's hydrological dynamics, causing loss of natural land and increasing the risk for erosion and vulnerability to inundation. They also magnify the impact of extreme weather events and natural disasters." The article further quotes

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Dr. Asif Inam, former Director-General of the National Institute of Oceanography, saying that "Clifton beach is experiencing rapid sedimentation of the material dredged from KPT's Deep Sea Container Terminal, and that any structure along the Clifton beach would obstruct the naturally occurring process of longshore sediment transport from the West of Clifton to the East, thus resulting in accumulation of sediments on the western side and erosion on the eastern side of the structure."

2. That the Sindh Environmental Protection Agency (Review of Initial Environmental Examination and Environmental Impact Assessment) Regulations, ("2014 Regulations") provide in Regulation 4 that "*a proponent of a project falling in any category listed in Schedule-II shall file an EIA (Environment Impact Assessment) with the Agency (SEPA).*" While Regulation 3 provides that "*A proponent of a project falling in any category listed in Schedule-I shall file an IEE (Initial Environmental Examination) with the Agency.*" It is apparent from a perusal of Schedule II that "large scale public facilities" fall within clause I (4) of the said Schedule. The facilities at the proposed development project are to include "two beach decks, a jogging track, fountains, monuments, restaurants and tuck shops, hawkers and streets stalls, a children's play area, two public piazzas of 2.5 acres each, green areas spread over 13.5 acres and watchtowers" (Dawn, 5th July, 2020). It, therefore, has all the features for "large scale public facilities" and requires an EIA. The project also has the potential to fall within clause K (2) of Schedule II as it is a "*project likely to cause an adverse environmental effect.*"
3. That as per section 18 (1) of the Sindh Environmental Protection Agency, 2014, "*All provincial government agencies, departments, authorities, local councils and local authorities responsible for formulating policies, legislation, plans and programmes to be implemented in Sindh province which may cause any environmental impact in the jurisdiction of the province shall, before submitting the same to the competent authority for approval, forward to the Sindh Environmental Protection Agency a strategic environment assessment.*" CBC, being a local authority, and the proposed project having the potential to cause environmental impact in the jurisdiction of Sindh province, the question arises as to why a Strategic Environment Assessment (SEA) has not been conducted.
4. That scrutiny of the proposed development project is a matter of public interest. It involves a potential adverse impact upon the environment and hence requires public participation under the Environment Impact Assessment (EIA) review process. It also impacts Fundamental Rights under the Constitution. The Supreme Court of Pakistan has ruled that the right to life under Article 9 of the Constitution encompasses the right to a healthy environment. Further, under the Public Trust Doctrine, the state is

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obligated to hold public resources, such as coastlines, on trust for the enjoyment and use of the public. Therefore, public participation in any development activity that affects the environment is essential, as is the requirement for fulfilling regulatory provisions.

5. That in its response to PILAP's RTI application dated 6th July, 2020, via Appeal No. 458-08/20 CBC has provided a copy of an NOC issued to it by SEPA in response to an Initial Environmental Examination (IEE) conducted by CBC for the proposed development project in question. CBC has also, very helpfully, attached a copy of the IEE conducted by it.
6. That in view of the above discussion and CBC's response to PILAP's RTI, PILAP seeks the following information from CBC:
 - i) Why has an EIA or SEA not been conducted for the proposed development project along the stretch of Seaview Beach, Karachi?

Thank you.

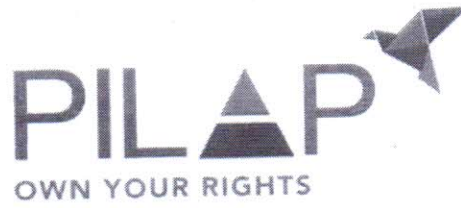
Yours Sincerely,



Public Interest Law Association of Pakistan (PILAP).
Through its Chief Executive Officer
Pervez Said

Address for reply:

Public Interest Law Association of Pakistan (PILAP),
Office No.202, 2nd Floor, Zamzama Commercial Lane # 2,
Defence Housing Authority, Phase-5,
Karachi.



BY COURIER

Ref: PILAP/2020/344

July 06, 2020

1. Cantonment Board Clifton,
Through the Cantonment Executive Officer,
CC-38, 10th Street,
Khayaban-e-Rahat,
Phase VI, DHA,
Karachi
2. Sindh Environment Protection Agency
Through its Director General
EPA Complex,
Head Office,
Plot No. ST-2/1, Sector 23,
Korangi Industrial Area,
Karachi

REQUEST FOR INFORMATION UNDER THE RIGHT OF ACCESS TO INFORMATION ACT, 2017

Dear Sir,

The Public Interest Law Association of Pakistan (PILAP) is a public interest association registered under the laws of Pakistan and is concerned with addressing issues of public interest in accordance to the Fundamental Rights guaranteed by the Constitution of the Islamic Republic of Pakistan. It respectfully submits as under: -

1. That the details of the authorized person on behalf of PILAP are as under; -

Name of the Applicant:	Pervez Said
CNIC No.:	42301-0954324-1
Father's Name:	Muhammad Said
Address:	51-I, Khayaban-e-Hilal, Phase-6, DHA, Karachi
Phone No.:	0300-8235570

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2. That please refer to the article published in *Dawn* on 5th July, 2020, titled "Clifton Beach Development Project Poses Serious Environmental Risk, Experts Warn". The said article is attached herewith for ease of reference.
3. That the above mentioned article draws attention to a development project currently being undertaken by the Cantonment Board Clifton (CBC) along a stretch of Seaview Beach. Though the project has been approved by the Sindh Environmental Protection Agency (SEPA), the approval was granted without a detailed Environmental Impact Assessment (EIA). Under the provisions of the Sindh Environmental Protection Act, 2014, once an EIA has been submitted by a proponent of a project, SEPA is required to review it before such approval is granted. Every such review is to be carried out with public participation and after full disclosure of the project details.
4. That the citizens of Karachi are stakeholder in the proposed CBC project and hence it is their right to be a part any decision-making process that has an impact on their lives. The Constitution guarantees the right to life, which has been interpreted by the Supreme Court of Pakistan to include the right to a healthy environment. The citizens, therefore, are entitled to be a part of any review process that could have an impact on their lives.
5. That the proposed project could potentially have an adverse impact on the surrounding environment, including the coastline. It would also pose a risk in terms of polluting the water, and hence threatening the flora and fauna, as well as the human population.
6. That, in light of the above, PILAP respectfully submits this Application requesting for information under the right granted to all citizens of Pakistan under the Right of Access to Information Act 2017 as under: -
 - i) What is the reasoning behind SEPA's failure to conduct a review of CBC's proposed project, as it is required to do under the law?
 - ii) What is the reasoning behind SEPA's failure to meet the requirement of seeking public participation in its review of the CBC project, as it is required to do under the law?
 - iii) What measures, if any, has CBC taken to ensure that the proposed project shall be open to all citizens, in line with the pronouncements of the Honourable superior

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courts that have pronounced that the right to open access to public spaces is a fundamental right?

iv) What steps, if any, has CBC taken to ensure that the proposed project does not adversely impact the environment, including the sea and coastline, flora and fauna and human health?

7. That in the circumstances, PILAP would be grateful for a reply at the earliest.

Thank you.

Best regards,


Public Interest Law Association of Pakistan (PILAP)
Through its Chief Executive Officer
Pervez Said

Address for reply:

Public Interest Law Association of Pakistan (PILAP),
Office No.202, 2nd Floor, Zamzama Commercial Lane # 2,
Defence Housing Authority, Phase-5,
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CANTONMENT BOARD CLIFTON

CC-38, Street 10, Kh-e-Rahat, Phase-VI, DHA, Karachi-75500
Ph. # 35847831-2, 35348774-5, 35850403, 35348784, Fax 5847835
Website: www.cbc.gov.pk



BY HAND/TCS/THROUGH FAX

Dated the 29 August 2020

No. CBC/Engr Branch/ 02440
To

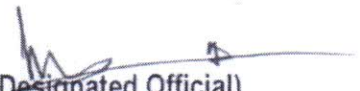
✓ M/s Public Interest Law Association of Pakistan (PILAP)
Office No. 202 , 2nd Floor Zamzama Commercial Land-2,
Defence Housing Authority.

Subject: REQUEST FOR INFORMATION UNDER RIGHT OF ACCESS TO INFORMATION ACT, 2017

Reference: PILAPS letter No. PILAP/2020/344 dated 06/7/2020 and Pakistan Information Commission letter/ Appeal No. 458-08/2020 dated 7/8/2020.

2. The requisite information is given hereunder as desired please. However the delay is regretted please.

S#	Information Required	Response
1	What measure, if any has CBC taken to ensure that the proposed project shall be open to all citizen, in the line with pronouncements of the Honourable superior courts that have pronounced that the right to open access to public spaces is a fundamental right?	The proposed project will be open for general public once executed.
2	What Step, if any, CBC taken to ensure that the proposed project does not adversely impact on the environment, including the sea and coastline flora and fauna and human health.	SEPA has already accorded NOC/ approval vide letter dated 19/2/2020. All the requisite measures which are necessary to save coastline flora and fauna including human health will be carried out by CBC in the line with SEPA's NOC.


(Designated Official)
CHIEF CANTT ENGINEER
CLIFTON CANTONMENT

Copy to:

1. The Station Headquarters Karachi Cantt
2. The Information Commissioner
Pakistan Information Service Academy Zero Point Islamabad