Office of the Information and Privacy Commissioner for Nova Scotia
Report of the Commissioner (Review Officer)
Tricia Ralph

REVIEW REPORT 20-06

November 3, 2020

Cape Breton Regional Municipality

Summary: The applicant sought access to all communications relating to the grant of the exclusive right to market the Port of Sydney. The Cape Breton Regional Municipality (CBRM) severed and withheld information in full under s. 477 (financial or economic interests), s. 480(1) (personal information) and s. 481 (confidential information) of the *Municipal Government Act* (*MGA*). The Commissioner finds that the CBRM failed to meet its burden of showing that the information should be withheld pursuant to the above-noted sections of the *MGA*. On that basis, the Commissioner recommends disclosure of all of the information in full. In addition, the Commissioner finds that the CBRM failed in its duty to assist the applicant by not conducting a reasonable search for records as required by s. 467(1) of the *MGA*. Furthermore, the CBRM contravened s. 465(2) of the *MGA* by withholding the documents in full and not conducting a line-by-line review of the records. The Commissioner recommends that the CBRM conduct a new and complete search and provide the applicant with a new open, accurate and complete decision in response to the applicant's access to information request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25, s. 10; *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 6, 16; *Freedom of Information and Protection of Privacy Act*, CCSM c F175, s. 9; *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, s. 2; *Freedom of Information and Protection of Privacy Act*, SNS 1993, c 5, s. 12, 17, 19, 20, 21; *Municipal Government Act*, SNS 1998 c 18, ss. 461, 462, 465, 467, 477, 480, 481, 482, 498.

Authorities Considered: Alberta: Order F2006-008, 2007 CanLII 81638 (AB OIPC); **British Columbia:** Orders *331-1999; Vancouver Police Board* [1999] B.C.I.P.C.D. No. 44; 02-56, 2002 CanLII 42493 (BC IPC); 03-16, 2003 CanLII 49186 (BC IPC); F06-03, 2006 CanLII 13532 (BC IPC); F-08-03, 2008 CanLII 13321 (BC IPC); F-08-22, 2008 CanLII 70316 (BC IPC); F09-15, 2009 CanLII 58553 (BC IPC); Order 00-32, 2000 CanLII 14397 (BC IPC); F14-41, 2014 BCIPC 44 (CanLII); **Nova Scotia:** Review Reports FI-06-13(M), 2006 CanLII 21751 (NS FOIPOP); FI-07-59, 2008 CanLII 50497 (NS FOIPOP); FI-09-100, 2015 CanLII 70493 (NS FOIPOP); FI-10-41, 2011 CanLII 33001 (NS FOIPOP); FI-10-59(M), 2015 CanLII 39148 (NS FOIPOP); FI-11-76, 2014 CanLII 71241 (NS FOIPOP); 16-01, 2016 NSOIPC 1 (CanLII); 16-09, 2016 NSOIPC 9 (CanLII); FI-16-21, 2016 NSOIPC 12 (CanLII); FI-17-03, 2017 NSOIPC 3 (CanLII); 18-02,

2018 NSOIPC 2 (CanLII);18-11, 2018 NSOIPC 11 (CanLII); 19-01, 2019 NSOIPC 19 (CanLII); **Ontario:** Orders 24, 1988 CanLII 1404 (ON IPC); MO 2362, 2008 CanLII 68858 (ON IPC).

Cases Considered: *Air Atonabee Ltd. v. Canada (Minister of Transport) (1989), 37 Admin. L.R. 245 (FCTD)*; *Atlantic Highways Corporation v. Nova Scotia, 1997 CanLII 11497 (NS SC); Atlantic Lottery Corporation Inc. v. Newfoundland and Labrador (Finance), 2018 NLSC 133 (CanLII); Beverage industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance), 2019 NLSC 222; Canada (Information Commissioner) v. Canada (Canadian Transportation Accident Investigation and Safety Board) 2006 FCA 157; Chesal v. Attorney General of Nova Scotia (2003) 2003 NSCA 124 (CanLII); Fuller v. R. et al. v. Sobeys, 2004 NSSC 86; House, Re, 2000 CanLII 20401 (NS SC); , Imperial Oil Limited v. Alberta (Information and Privacy Commissioner), 2014 ABCA 231 (CanLII);John Doe v. Ontario (Finance), [2014] 2 SCR 3, 2014 SCC 36 (CanLII); Merck Frosst Canada Ltd. v. Canada (Health), [2012] 1 SCR 23, 2012 SCC 3 (CanLII); O'Connor v. Nova Scotia, 2001 NSCA 132 (CanLII); Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner), [2014] 1 SCR 674, 2014 SCC 31 (CanLII).*

INTRODUCTION:

[1] The applicant sought any communications between employees of the Cape Breton Regional Municipality (CBRM) and an organization granted the exclusive right to market the Port of Sydney for a 19 month period between 2013 and 2015. The CBRM provided the applicant with 28 pages of records with a small amount of personal information severed pursuant to s. 480(1) of the *MGA* (personal information). The CBRM withheld 862 pages in full claiming that it was authorized to withhold the records because they were about negotiations carried on for the CBRM (s. 477(1)(e)); release would result in the premature disclosure of a project (s. 477(1)(d)) and that the information was received in confidence (s. 481).

[2] During the investigation of the issues, the Office of the Information and Privacy Commissioner (OIPC) investigator identified to the CBRM that records appeared to be missing, as attachments to some emails were not included in the package of unredacted documents that the CBRM provided to this office. Because the issue of the missing records was not resolved during the investigation, that issue also formed part of this review.

ISSUES:

[3] There were four issues under review:

1. Did the CBRM meet its duty to assist the applicant by conducting an adequate search for records as required by s. 467(1)(a) of the *MGA*?
2. Was the CBRM authorized to refuse access to information under s. 477 of the *MGA* because disclosure of the information could reasonably be expected to harm the financial or economic interests of the municipality?
3. Was the CBRM required by s. 481 of the *MGA* to refuse access to the record or any part thereof because disclosure of the information could reasonably be expected to be harmful to the business interests of a third party?

4. Was the CBRM required by s. 480(1) of the *MGA* to refuse access to the record or any part thereof because disclosure of the information would be an unreasonable invasion of a third party's personal privacy?

DISCUSSION:

Background

[4] In 2007, the *Ports of Sydney Master Plan*[1] identified a state-of-the-art container terminal in Sydney Harbour as a development project. This Master Plan included a site location and short, intermediate and long-term action plans relating to the construction of a container terminal. The Port of Sydney Development Corporation (PSDC), formerly the Sydney Ports Corporation, was given the mandate to market and develop the Sydney Harbour.[2]

[5] On March 1, 2013, the CBRM held a Special Council meeting and voted to approve a motion to authorize the mayor and acting chief administration officer to proceed with the next steps in the gathering of information on the possibility of the development of a container terminal at the Port of Sydney.[3]

[6] At the CBRM council meeting on June 16, 2015, the mandate, authority and responsibility for the overall port development, operations and governances were transferred from the mayor, council and CBRM Administration to the PSDC. Also, Harbour Port Development Partners (HPDP) was awarded an exclusivity agreement to continue to pursue the development of the Port of Sydney with the PSDC.[4]

Burden of proof

[7] At a review of a decision to refuse an applicant access to a record, the burden is on the municipality to prove that the applicant has no right of access to the record or part of the record, pursuant to s. 498(1) of the *MGA*. However, in the case of personal information, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

Records at issue

[8] The records at issue were broken into two packages: (#1) the package of records disclosed in part to the applicant and (#2) the 862 pages that were withheld in full.

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[1] http://www.sydneyport.ca/wp-content/uploads/2015/06/MasterPlanVol1of21.pdf

[2] Port of Sydney Development Corporation Strategic Plan 2018-2020: http://www.sydneyport.ca/wp-content/uploads/2019/10/Port-of-Sydney-Strategic-Plan-WEB1.pdf

[3] http://laserfiche.cbrm.ns.ca/WebLink8/DocView.aspx?id=39381&searchid=f7e823c7-50c5-47a5-b57c-832c5cfa5062&dbid=1

[4] http://laserfiche.cbrm.ns.ca/WebLink8/DocView.aspx?id=39544&searchid=f7e823c7-50c5-47a5-b57c-832c5cfa5062&dbid=1

[9] The information in the package released to the applicant (package #1) can be described as:

- public news releases and articles,
- community gifting event invitations,
- community support offers,
- notices of upcoming interviews,
- links to interviews, and
- congratulations on interviews.

[10] The topics of the above items can be described as canal and port construction, airline safety, airline routes, container shipping, international politics and perceptions of community perspectives.

[11] I must be careful in describing the information in the package of records that was withheld in full from the applicant (package #2) as this office cannot disclose the contents of the records. However, the types or categories of information can be described as:

- emails,
- draft news releases and articles,
- strategies for what should be included in news releases and articles,
- preparation and circulation of presentation materials, and
- business agreements.

Duty to sever

[12] In package #2, every page has been withheld in full. It is essential to an effective, meaningful and robust access to information law that municipalities fully appreciate the requirement to selectively sever records. The law does not create whole document carve outs. Rather, the law makes clear that municipalities are only permitted to withhold information exempted from disclosure. Everything else must be disclosed.

[13] The Supreme Court of Canada has stated that access to information legislation creates a presumption in favour of disclosure.[5] How that works in practice in Nova Scotia is reflected in part in s. 465(2) of the *MGA*:

> 465(2) The right of access to a record does not extend to information exempted from disclosure pursuant to this Part but, if that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

[14] That provision makes clear that municipalities must only exempt information as authorized pursuant to the *MGA* and further, where the information can reasonably be severed, municipalities are obliged to release the remainder of the record to the applicant.[6] This means

[5] *John Doe v. Ontario (Finance),* [2014] 2 SCR 3, 2014 SCC 36 (CanLII) at para. 41. 4 See *Freedom of Information and Protection of Privacy Act* s. 2(a). This is the general approach that was taken in previous review reports such as NS Review Report 16-09 at para. 14.
[6] As stated in Review Report 17-03.

that any remaining information that is both intelligible and responsive to the request after the exempted information has been removed should be released.[7]

[15] The CBRM is expected to do a line-by-line review of the entire record. Even at a glance, it is obvious that this did not occur. First, attachments to emails were missing. Second, information that obviously would not be subject to any exemption was withheld in full, such as the business contact information of CBRM employees and things like salutations and plans to meet that included no substantial information.

[16] I find that in withholding the entire record (package #2), the CBRM failed to satisfy its duty to sever.

Issue #1: Did the CBRM meet its duty to assist the applicant by conducting an adequate search for records as required by s. 467(1)(a) of the *MGA*?

[17] Section 467(1)(a) of the *MGA* requires the municipality to make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely. The issue of conducting an adequate search as required by s. 467(1)(a) of the *MGA* was not initially raised by the applicant. The applicant was told that package #2 would be withheld in full and so had no knowledge of the contents of the 862 pages of records withheld in full.

[18] As part of the investigation process, this office reviewed the 862 pages that were withheld in full. The investigator assigned to this file notified the CBRM that 41 documents that should have been attached to the records withheld in full did not appear to be attached and therefore were missing. During my review of the records, I also identified multiple additional missing attachments, some of which are identifiable in the attachment line of the email and some of which are referenced in the body of the email.

[19] Section 498 of the *MGA*, which sets out the burden of proof, is silent respecting s. 467(1). Therefore, normally the parties must each submit arguments and evidence in support of their positions. In this case however, the applicant has no knowledge of this issue and thus would not be able to make arguments.

[20] The issue of the duty to assist has been the subject of many review reports, with the leading Nova Scotia case being Review Report FI-11-76. In that case, the former Commissioner noted the duty to assist applicants is a duty found in access to information legislation across Canada.[8] I will not repeat the full discussion from Review Report FI-11-76 here but the same conclusion applies:

> [13] What is clear from decisions across these Canadian jurisdictions is that where an applicant alleges a failure to conduct an adequate search the applicant must provide something more than mere assertion that a document should exist.

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[7] This is also the approach taken in other jurisdictions. See for example *BC OIPC Order 03-16*, 2003 CanLII 49186 (BC IPC), at para. 53 and *Ontario Order 24, Ontario (Attorney General) (Re)*, 1988 CanLII 1404 (ON IPC), at p. 8.
[8] *Access to Information Act*, s. 4(2.1); *Freedom of Information and Protection of Privacy Act* (BC), s. 6(1); *Freedom of Information and Protection of Privacy Act* (Manitoba), s. 9; *Freedom of Information and Protection of Privacy Act* (Alberta), s. 10(1).

> [14] In response, the public body must make "every reasonable effort" to locate the requested record. The public body's evidence should include a description of the business areas and record types searched (for example emails, physical files, databases), should identify the individuals who conducted the search (by position type), and should usually include the time taken to conduct the search. If there is an explanation for why a record may not exist, it should be provided.

[21] Although the *MGA* does not impose a standard of perfection, a municipality's efforts in searching for records must conform to what a fair and rational person would expect to be done or consider acceptable. The search must be thorough and comprehensive.[9]

[22] The CBRM did let us know several times that it was continuing to search for the missing records but never committed to a date to complete this task and as of the date of this report, had only provided a couple of the missing records. The CBRM was well outside of the statutory time frame to complete this fundamental requirement. The CBRM treated the statutory time frames as guidelines when they are in fact legal duties. It completely disregarded the statutory timeframes set out in the law. As such, I have no hesitation in finding that the CBRM failed to meet its duty to conduct an adequate search for the responsive records.

Issue #2: Was the CBRM authorized to refuse access to information under s. 477 of the *MGA* because disclosure of the information could reasonably be expected to harm the financial or economic interests of the municipality?

[23] The CBRM withheld 862 pages in full (package #2). The CBRM identified both s. 477 and s. 481 as its authority to withhold in full on every single page. With regard to s. 477, it cited two subsections of s. 477 as authority to withhold the information. Those subsections were 477 (d) and (e):

> 477 (1) The responsible officer may refuse to disclose to an applicant information, the disclosure of which, could reasonably be expected to harm the financial or economic interests of the municipality, another municipality or the Government of the Province or the ability of the Government of the Province to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose the following information:
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> > (d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;
> > (e) information about negotiations carried on by or for the municipality or another municipality or the Government of the Province.

[24] To rely on s. 477(1), the CBRM must establish that the disclosure of the withheld information could reasonably be expected to harm the financial or economic interests of the CBRM, another municipality or the Province of Nova Scotia. Section 477 provides that such harm may arise from the non-exhaustive list of enumerated circumstances set out in ss. 477(1)(a)

[9] Order 00-32, 2000 CanLII 14397 (BC IPC), p. 5.

to (e).[10] In this case, the CBRM pointed to 477(1)(d) and 477(1)(e) as being relevant considerations.

Position of the CBRM

[25] With respect to the requirement to establish harm, the CBRM pointed to *Fuller v. Nova Scotia*[11] for the premise that there must be a clear and direct connection between the disclosure and the alleged harm in order to satisfy the requirement of a "reasonable expectation of harm". It also noted that in *Chesal v. Nova Scotia (Attorney General)*,[12] the Nova Scotia Court of Appeal said that there must be a "clear and direct" connection between the disclosure and the alleged harm. Finally, the CBRM stated that in *Atlantic Highways Corporation (Re)*,[13] the Nova Scotia Supreme Court provided the following test to determine the degree of prospective harm required under s. 21(1) of the *Freedom of Information and Protection of Privacy Act (FOIPOP)*:

> The other parties in this hearing point out that such losses of advantage are purely speculative. They are indeed, but all of such categories of s. 21(1)(c) must call for speculation; the possible future harm which might possibly be caused by the future release of information. In applying such speculative legislative requirements a court must make its decision on the basis of an assessment of the degree of probability of such harm.
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> A review of the wording used in the 'harm of disclosure' subsection makes it clear that the legislature seeks evidence of more than the possibility of some loss; it requires that it be shown that the information "reasonably" be expected to "harm significantly" or "interfere significantly" in subsection (i) and "result in undue financial loss" in subsection (iii). Such modifiers would seem to imply that the legislature requires a logically and rationally based threshold of 'speculative proof' of 'harm' or damages of some substance.[14]

[26] After citing the case law, the CBRM's argument was that given the importance of the development of the Port of Sydney to the economic future of the CBRM and its residents, there was a clear and direct connection between the premature disclosure of the records it was claiming to be exempt and the reasonable expectation of harm that would result from such disclosure. Further, it said, this reasonable expectation of harm meets the logically and rationally-based threshold as any such disclosure would substantially jeopardize not only current negotiations but the potential for future negotiations and agreements with third parties.

[27] The CBRM also argued that the release of the records would cause a reasonable expectation of harm to occur. The CBRM said that the information contained in the records was sensitive and that disclosure of it would lead to future harm to the CBRM. It concluded by saying that in order to keep the prospects of having a container terminal constructed, the documents should not be disclosed to the applicant.

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[10] NS Review Report 19-01, 2019 NSOIPC 19 (CanLII), at para. 58.
[11] 2004 NSSC 86.
[12] 2003 NSCA 124.
[13] [1997] N.S.J. No. 238.
[14] Note that the wording in s. 21 of *FOIPOP* is identical to that set out in s. 481 of the *MGA*. Thus, the analysis is applicable to an analysis under the *MGA*.

[28] Finally, the CBRM argued in its representations that the documents that were withheld should remain exempt from disclosure as the documents contained sensitive information pertaining to the development of the project. It noted that much of what was discussed had yet to come to fruition. The CBRM stated that public disclosure of the documents would run contrary to s. 477 of the *MGA* and additionally, would be against the economic interests of the CBRM and surrounding area, putting the prospects of the project in jeopardy.

[29] That was the extent of the CBRM's representations.

Analysis

[30] The CBRM bears the burden of proving that the test in s. 477 has been satisfied. Harms-based exemptions require a reasoned assessment of the future risk of harm. The leading case in Canada on the appropriate interpretation of the reasonable expectation of harm test found in access to information laws determined that access statutes mark out a middle ground between that which is probable and that which is merely possible.[15] A municipality must provide evidence well beyond or considerably above a mere possibility of harm in order to reach that middle ground.[16]

[31] The standard of proof required of the CBRM was that the evidence must show that the harm asserted was well beyond a mere possibility that disclosure could harm its economic interests or the economic interests of another municipality or the Province. Here, the CBRM barely even set out what the alleged harm could be. There was one sentence that the release of the documents could put the prospects of the project in jeopardy. Even if I accept that releasing some records could put the project in jeopardy, the CBRM simply asserted that harm would occur. No explanations were provided as to *how* release of the documents could cause the asserted harm. The assertion was not supported by any evidence about how release of the information would cause the alleged harm. The withheld records contain things like emails about logistics and circulations of draft press releases. I fail to see how the release of such records could cause the alleged harm of having the whole project not succeed. Overall, the CBRM's representations fell well short of establishing a clear and direct connection between the disclosure and so are insufficient to establish a reasonable expectation of harm.

[32] I find that the CBRM has failed to satisfy the burden of proof and so I find that s. 477 does not apply to the withheld information.

[33] Because the CBRM did not establish that harm could occur, it is not necessary for me to delve into the specific subsections of s. 477 that it relied on. However, I offer a few comments here.

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[15] *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, [2014] 1 SCR 674, 2014 SCC 31 (CanLII), at para. 54. The former Information and Privacy Commissioner relied on this test in a number of previous decisions including *NS Review Report 18-02*, 2018 NSOIPC 2 (CanLII), at para. 38. The former British Columbia Commissioner referred to this as a "reasoned assessment of the future risk of harm" in Order F-08-22, 2008 CanLII 70316 (BC IPC), at para. 44.

[16] This summary of the application of s. 17 of *FOIPOP* (which is similar to s. 477 of the *MGA*) also appears in *NS Review Report 18-11*, 2018 NSOIPC 11 (CanLII), at paras. 33-34.

477(1)(d): Premature disclosure of a project

[34] With regard to the application of s. 477(1)(d), the withheld information must be "information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party." According to the Merriam-Webster online dictionary, the term "premature" means "happening, arriving, existing, or performed before the proper, usual, or intended time."

[35] The applicant submitted the access to information request on July 3, 2015. In March 2013, it was public knowledge that the CBRM would be exploring the possibility of the development of a container terminal. On March 10, 2015, one of the third parties was interviewed on CBC Radio's Mainstreet.[17] As of June 16, 2015, it was public knowledge that Harbour Port Development Partners was awarded an exclusivity agreement to continue to pursue the development of the Port of Sydney with the Port of Sydney Development Corporation. It was no secret that this project existed. The project was already made public by the time the access to information request was made. Release of the information would not prematurely disclose a project that had not yet been made public.

477(1)(e): Information about negotiations

[36] With regard to the application of s. 477(1)(e), the CBRM must establish that the withheld information was "information about negotiations carried on by or for a municipality."

[37] What is "information about negotiations"? Information that might be collected or compiled for the purpose of negotiations, that might be used in negotiations or that might, if disclosed, affect negotiations, is not necessarily *about* negotiations. Information about negotiations includes analysis, methodology, options or strategies in relation to negotiations.[18]

[38] In this case, significant portions of the withheld information had nothing to do with negotiations at all. I fail to see how an email discussing meeting logistics was *about* negotiations, for example. Furthermore, I did not see any information in the withheld portion of the record that would allow an assiduous reader to be able to glean information about the CBRM's strategy or methodology in relation to the negotiations. The information withheld was not information about negotiations within the meaning of s. 477(1)(e).

Issue #3: Was the CBRM required by s. 481 of the *MGA* to refuse access to the record or any part thereof because disclosure of the information could reasonably be expected to be harmful to the business interests of a third party?

[39] In addition to relying on s. 477, the CBRM cited s. 481 of the *MGA* in withholding in full the 862 pages of records in package #2 from the applicant. The test for the application of s. 481 of the *MGA* and the equivalent provision in *FOIPOP* (s. 21) is clearly set out in the provision. The asserting party must establish that the disclosure of the requested information:

1. Would reveal trade secrets of a third party or commercial, financial, labour relations, scientific or technical information of a third party;

[17] Barry Sheehy - Sydney Port Development: https://www.cbc.ca/news/canada/nova-scotia/programs/mainstreetcapebreton/barry-sheehy-sydney-port-development-1.2990798

[18] As stated in NS Review Report 16-12, 2016 NSOIPC 12 (CanLII) at para. 77.

2. That was supplied implicitly or explicitly in confidence; and
3. The disclosure of which could reasonably be expected to cause one or more of the harms enumerated in s. 481(1)(c).

[40] As set out in *Atlantic Highways Corporation (Re)*,[19] s. 481 must be read conjunctively. Thus, a party seeking to apply it to restrict information must satisfy all of the lettered subsections of s. 481.

[41] Nova Scotia's access to information legislation is unique in that it declares as one of its purposes a commitment to ensure that municipalities are fully accountable to the public.[20] It is intended to give the public greater access to information than might otherwise be contemplated in the other provinces and territories in Canada.[21] The *MGA* and similar access to information legislation across Canada strike a balance between the demands of openness and commercial confidentiality in two ways: it affords substantive protection of information by specifying that certain categories of third party information are exempt from disclosure and it gives procedural protection through the third party notice process.[22]

[42] As former Commissioner Tully previously discussed, courts have recognized that the important goal of broad disclosure must be balanced against the legitimate private interests of third parties and the public interest in promoting innovation and development.[23]

[43] Before getting into the substance of the test, I wish to speak to the issue of who is the third party in this case and who bears the burden of proof in raising a s. 481 argument. The *MGA* contemplates two scenarios with respect to notice to a third party:

> **Notice to third party**
> 482 (1) When a responsible officer receives a request for access to a record that contains or may contain information of or about a third party that cannot be disclosed, the responsible officer shall, where practicable, promptly give the third party a notice
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> (a) stating that a request has been made by an applicant for access to a record containing information that disclosure of which may affect the interests, or invade the personal privacy, of the third party;
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> (b) describing the contents of the record; and
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> (c) stating that, within fourteen days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the responsible officer explaining why the information should not be disclosed.
>
> (1A) Notwithstanding subsection (1), that subsection does not apply if
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> (a) the responsible officer decides, after examining the request, any relevant records and the views or interests of the third party respecting the disclosure

[19] [1997] N.S.J. No. 238 at paras. 27-28.
[20] See *Municipal Government Act* s. 462.
[21] *O'Connor v. Nova Scotia*, 2001 NSCA 132 (CanLII) at paras. 54-57.
[22] *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 SCR 23, 2012 SCC 3 (CanLII) [Merck Frosst] at para. 23.
[23] NS Review Report FI-10-59(M) paras. 9-15, NS Review Report 16-01 para. 14, *Imperial Oil Limited v. Alberta (Information and Privacy Commissioner)*, 2014 ABCA 231 (CanLII) at para. 67.

> requested, to refuse to disclose the record; or (b) where the regulations so provide, it is not practical to give notice pursuant to that subsection.

[44] I asked the CBRM whether it had given notice to any third parties and if so, who was considered to be a third party in light of the case law that requires the information be "of" a third party in order to engage these provisions. The CBRM's response was that it had engaged s. 482(1A) of the *MGA*. The CBRM said that disclosure of this information would be highly prejudicial to the interests of the CBRM and the associated third parties. The CBRM explained that two of the parties referenced in the record that were not the CBRM were approached and indicated that they objected to disclosure of their communications. The information withheld consisted almost entirely of communications between the CBRM and these two parties. The CBRM was of the opinion that due to the volume of documents that these two parties were part of, that notifying them was necessary as they were the main contacts outside the CBRM. With regard to the other parties mentioned in the documents, they were apparently not contacted as their communications were intertwined with the main source of the communications.

[45] As set out in *Merck Frosst Canada Ltd. V. Canada (Health),*[24] there is a "fairly low threshold to trigger the obligation to give notice" and correspondingly a "high threshold for disclosure without notice". As explained by Justice Orsborn in *Atlantic Lottery Corp. v. Newfoundland and Labrador (Minister of Finance),*[25] once this low threshold has been met, the next step is to determine whether the information is "of" a potential party and if so, if there is reason to believe the information might be excepted from disclosure:

> Having identified potential third parties in what I would call a liberal manner, it is then the responsibility of the head to assess whether there is reason to believe that the information of such parties is "of" a potential third party and, if so, if there is reason to believe the information might be excepted from disclosure. This assessment would determine whether or not the low threshold for giving notice has been met.[26]

[46] In terms of what constitutes "of a third party", Justice Marshall concluded in *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)* after having considered the existing case law, that the words "of a third party" suggest that the third party must have some form of a proprietary interest in the information, although this does not mean that the information needs to be solely owned by the third party.[27] Justice Marshall found that the operators of video lottery terminals (VLT) should have been

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[24] *Merck Frosst Canada Ltd. V. Canada (Health)*, 2012 SCC 3, [2012] 1 SCR at paras. 63 and 72.
[25] *Atlantic Lottery Corp. v. Newfoundland and Labrador (Minister of Finance)*, 2018 NLSC 133. Note that this case was appealed in *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)*, 2019 NLSC 222 but not in regard to this point. Furthermore, *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)* is currently under appeal.
[26] *Atlantic Lottery Corp. v. Newfoundland and Labrador (Minister of Finance)*, 2018 NLSC 133 at para. 54 [A.L.C. v. N.L.]. Note that this case was appealed in *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)*, 2019 NLSC 222 but not in regard to this point. Furthermore, *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)* is currently under appeal.
[27] *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)*, 2019 NLSC 222 at para. 55.

given third party notice, as although the information requested in the access request was not produced or owned by the VLT operators, given that the prospect of harm to the VLT operators was put before the Commissioner, fairness dictated that he should have given the opportunity to the VLT operators to make representations.[28]

[47] In the present case, the vast majority of what was withheld in full in package #2 was emails between various third parties and the CBRM. When one writes an email and sends it to a member of a municipality who is subject to the *MGA*, this does not imply that one had a proprietary interest in its contents. I have reviewed the emails in package #2 and find that none of them contain a proprietary interest such that the information is "of" a third party.

[48] The package also contained various unsigned business agreements. As set out in *Atlantic Highways Corp. v. Nova Scotia*, typically, commercial information contained in a negotiated agreement is not proprietary to a third party because it is the product of negotiation.[29] In that case, the Court determined that information in an omnibus agreement to construct a toll highway was not commercial or financial information of third a party because the information had either already been exposed to publication or was so intertwined with the Provincial input by way of the requirement of the request for proposal or modified by the negotiation process that it clouded the third party's claim to a proprietary interest in the information.[30]

[49] Overall, the CBRM confirmed that it relied on s. 482(1A) of the *MGA*. Furthermore, my assessment of the information withheld in package #2 is that because the information is not proprietary, notice to the various other parties named was not required. For these reasons, I find that in this case, pursuant to s. 498(1), it is the CBRM that has the burden to prove that the applicant has no right of access the record.

[50] I will now move on to the substance of the test for whether the information can be withheld pursuant to s. 481 of the *MGA*.

Step 1: Does the withheld information reveal trade secrets or commercial, financial, labour relations, scientific or technical information of a third party (s. 481(1)(a))?

[51] The first part of the test requires the municipality to explain how disclosure would reveal trade secrets or commercial, financial, labour relations, scientific or technical information of a third party.

[52] The CBRM provided no representations on this point. As such, the CBRM did not discharge its burden regarding this first aspect of the test. I am not satisfied that the information it sought to protect is one of the categories of information listed in s. 481(1). In other words, because the CBRM has not met its burden, I must find that s. 481 cannot apply and so the CBRM cannot rely on it to withhold information. Nevertheless, as I have reviewed the records, I will make a few comments about this aspect of the test.

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[28] *Beverage Industry Association of Newfoundland and Labrador v. Newfoundland and Labrador (Minister of Finance)* at para. 104.
[29] *Atlantic Highways Corp. v. Nova Scotia* (1997), 1997 CanLII 11497 (NSCC), 162 N.S.R. (2) 27.
[30] *Atlantic Highways Corp. v. Nova Scotia* (1997), 1997 CanLII 11497 (NSCC), 162 N.S.R. (2) 27 at p. 9.

[53] Trade secrets are defined in s. 461 of the *MGA* as:

> (l) "trade secret" means information, including a formula, pattern, compilation, program, device, product, method, technique or process, that
>
> (i) is used, or may be used, in business or for any commercial advantage,
>
> (ii) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use,
>
> (iii) is the subject of reasonable efforts to prevent it from becoming generally known, and
>
> (iv) the disclosure of which would result in harm or improper benefit.

[54] I have no evidence before me to establish that the information in question "derives independent economic value", that it is "subject to reasonable efforts to prevent it from becoming generally known" or that disclosure "would result in harm or improper benefit." Absent evidence on this issue, I cannot find that the information in question qualifies as a trade secret within the meaning of the *MGA*.

[55] Similarly, there was no issue of labour relations that arose in the records.

[56] The terms commercial, financial, scientific or technical information are not defined in the *MGA*. It has been generally accepted that dictionary meanings provide the best guide and that it is sufficient for the purposes of the exemption that information relate or pertain to matters of finance, commerce, science or technical matters as those terms are commonly understood.[31]

[57] There was no scientific or technical information in the withheld documents. While it is arguable that there was some commercial and financial information, it is critical that the information also be "of a third party". As I set out above, I am not satisfied that the information here is "of a third party".

[58] I find that the CBRM failed to meet its burden of proving this first aspect of the test. Accordingly, I find that the CBRM has failed to meet its burden of proving that s. 481 applies to any of the withheld information.

[59] In the event I am incorrect, I will go on to address the remaining two parts of the test.

Step 2: Was the information supplied implicitly or explicitly in confidence (s. 481(1)(b))?

[60] The second aspect of the test requires the municipality to establish that the information at issue was supplied, implicitly or explicitly, in confidence.

[31] *Air Atonabee Ltd. v. Canada (Minister of Transport)* (1989), 37 Admin. L.R. 245 (FCTD) [Air Atonabee] at p. 268 cited with approval in Merck Frosst at para. 139.

[61] The CBRM identified that with regard to whether information was "supplied in confidence" under *FOIPOP*, the Nova Scotia Court of Appeal has stated that there must be an expectation of confidentiality by all parties sending and receiving the information, and has also endorsed a non-exhaustive list of factors to consider when determining whether information was supplied in confidence:

> [43] In determining whether particular information is received in confidence, the Court must consider the circumstances as a whole including the content of the information, its purposes and the purposes and conditions under which it was prepared and communicated. It is not enough that the supplier of the information states, without further evidence, that it is confidential; otherwise, a party supplying the information could ensure the information was not released. Likewise, the fact information is marked confidential is not conclusive that the information was supplied in confidence. If such was the case, the mere marking of information as "confidential" would prevent its release.[32]
>
> [71] The FOIPOP Act refers to confidential information in a number of sections (ss. 19C(b), 20(2)(f), 20(5), and 21(1)(b)). Section 12(b) applies to information "received" in confidence, while all other sections describe the information as "provided" or "supplied" in confidence. In *Order 331-1999; Vancouver Police Board* [1999] B.C.I.P.C.D. No. 44 the Privacy Commissioner considered the meaning of "received" in confidence, as contrasted with "supplied" or "provided" in confidence in similarly worded provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165, s. 16(1)(b). He concluded that "received" in confidence requires that there be evidence of an expectation of confidentiality on the part of both the supplier and the receiver of the information. I agree.
>
> [72] The Commissioner developed a helpful list of factors to aid in determining whether information was received in confidence. He said:
>
> > Para 37 What are the indicators of confidentiality in such cases? In general, it must be possible to conclude that the information has been received in confidence based on its content, the purpose of its supply and receipt, and the circumstances in which it was prepared and communicated. The evidence of each case will govern, but one or more of the following factors - which are not necessarily exhaustive - will be relevant in s. 16(1)(b) cases:
> >
> > 1. What is the nature of the information? Would a reasonable person regard it as confidential? Would it ordinarily be kept confidential by the supplier or recipient?
> > 2. Was the record prepared for a purpose that would not be expected to require or lead to disclosure in the ordinary course?
> > 3. Was the record in question explicitly stated to be provided in confidence? (This may not be enough in some cases, since other evidence may show that the recipient in fact did not agree to receive

[32] *Chesal v. Nova Scotia (Attorney General)*, 2003 NSSC 10, at para. 43.

the record in confidence or may not actually have understood there was a true expectation of confidentiality.)

4. Was the record supplied voluntarily or was the supply compulsory? Compulsory supply will not ordinarily be confidential, but in some cases there may be indications in legislation relevant to the compulsory supply that establish confidentiality. (The relevant legislation may even expressly state that such information is deemed to have been supplied in confidence.)
5. Was there an agreement or understanding between the parties that the information would be treated as confidential by its recipient?
6. Do the actions of the public body and the supplier of the record - including after the supply - provide objective evidence of an expectation of or concern for confidentiality?
7. What is the past practice of the recipient public body respecting the confidentiality of similar types of information when received from the supplier or other similar suppliers?[33]

[62] The CBRM also highlighted that courts will look to both the words used by the parties and the conduct of the parties to determine whether information was received in confidence.[34] For example, although an audit report was marked as confidential in *Chesal*, the Court looked to all the circumstances and found that it was not in fact received in confidence.

[63] The CBRM's argument was that applying the above-noted law to the matter, all communications regarding the Port of Sydney, which had not been subject to a formal media release, were confidential. The CBRM said that securing a project of this size requires confidence in the various entities seeking to invest in this area. It said that in order to maintain confidence with various private sector players involved in this project, it needed to ensure that communications regarding the advancement of the container terminal remained confidential.

[64] I agree with the CBRM's representations about what test must be used to determine whether the information was supplied "in confidence". However, first I must assess whether the information was "supplied".

"Supplied"

[65] The Supreme Court of Canada in *Merck Frosst* has said that the governing legal principles for the application of provisions such as s. 481(1)(b) are:

> [155] The first is that a third party claiming the s. 20(1)(b) exemption must show that the information was supplied to a government institution by the third party.
>
> [156] A second principle is that where government officials collect information by their own observation, as in the case of an inspection for instance, the information they obtain in that way will not be considered as having been supplied by the third party…

[33] *Chesal v. Nova Scotia (Attorney General),* 2003 NSCA 124 at paras. 71-73.
[34] *Chesal v. Nova Scotia (Attorney General),* 2003 NSCA 124 at para. 78.

> [157] A third principle is that whether or not information was supplied by a third party will often be primarily a question of fact.

[66] In this case, the majority of the emails were from third parties to the CBRM. There were also several business agreements. I am satisfied that the information qualifies as "supplied" by a third party.

"In confidence"

[67] Turning now to whether the information was supplied "in confidence", the CBRM provided no evidence as to whether or not, at any stage in the process, the third parties supplied any information with the expectation that it would be kept confidential, aside from noting that the two third parties it spoke to objected to disclosure of the communications. As set out above, it simply stated that all communications were confidential, securing a project of this size requires confidence in the various entities seeking to invest in this area and that in order to maintain confidence with various private sector players involved in this project, it needed to ensure that communications regarding the advancement of the container terminal remained confidential.

[68] It would be a rare case where the burden to meet this aspect of the test was satisfied with no evidence and a bare assertion. Access to information legislation has long been in force in Canada. Private third parties should be well aware that their interactions with municipalities are fully accessible to the public subject to limited exemptions as set out in the legislation. One cannot promise or contract out of the disclosure requirements of the *MGA.* Again, the CBRM did not meet its burden. For all these reasons, I find that the information was not supplied "in confidence" within the meaning of s. 481(1)(b).

[69] Again, because I have found that this part of the test has not been met, the exemption cannot apply. I do not have to go on but will for completeness sake.

Step 3: Would disclosure reasonably be expected to cause harm listed in s. 481(1)(c)?

[70] With respect to the harm aspect of the test, the CBRM pointed to *Fuller v. Nova Scotia*[35] for the premise that there must be a clear and direct connection between the disclosure and the alleged harm in order to satisfy the requirement of a "reasonable expectation of harm". It also noted that in *Chesal v. Nova Scotia (Attorney General)*,[36] the Nova Scotia Court of Appeal said that there must be a "clear and direct" connection between the disclosure and the alleged harm. Finally, the CBRM stated that in *Atlantic Highways Corporation (Re)*,[37] the Nova Scotia Supreme Court provided the following test to determine the degree of prospective harm required under s. 21(1) of *FOIPOP*:

> The other parties in this hearing point out that such losses of advantage are purely speculative. They are indeed, but all of such categories of s. 21(1)(c) must call for speculation; the possible future harm which might possibly be caused by the future release of information. In applying such speculative legislative requirements a court must make its decision on the basis of an assessment of the degree of probability of such harm.

[35] 2004 NSSC 86.
[36] 2003 NSCA 124.
[37] [1997] N.S.J. No. 238.

> A review of the wording used in the 'harm of disclosure' subsection makes it clear that the legislature seeks evidence of more than the possibility of some loss; it requires that it be shown that the information "reasonably" be expected to "harm significantly" or "interfere significantly" in subsection (i) and "result in undue financial loss" in subsection (iii). Such modifiers would seem to imply that the legislature requires a logically and rationally based threshold of 'speculative proof' of 'harm' or damages of some substance.

[71] After citing the case law, the CBRM's argument was that given the importance of the development of the Port of Sydney to the economic future of the CBRM and its residents, there was a clear and direct connection between the premature disclosure of the records it was claiming to be exempt and the reasonable expectation of harm that would result from such a disclosure. The CBRM said that further, this reasonable expectation of harm met the logically and rationally-based threshold as any such disclosure would substantially jeopardize not only current negotiations but the potential for future negotiations and agreements with third parties. The CBRM also stated that discussions related to the development of the Port of Sydney were highly sensitive and as such, submitted that documents claimed under s. 481 should remain with the CBRM and be exempt from disclosure to the applicant as disclosure would not be in the best interests of the CBRM, putting the continued development of the Port of Sydney in jeopardy.

[72] This office has, on a number of occasions, reviewed the leading cases in Canada on the issue of how to assess a reasonable expectation of harm.[38] Therefore, I will not repeat that analysis here. In summary, I have determined that a reasonable expectation of harm requires evidence beyond a mere possibility of harm but somewhat lower than harm that is more likely than not to occur. As a practical matter, mere assertions of harm will rarely be sufficient. Independent evidence of expectations of harm or at least evidence of harm from the third party and the municipality is helpful. Evidence of previous harm from similar disclosures is also useful and evidence of a highly competitive market would assist in determining whether the test has been satisfied. In all cases, it is evidence of a connection between the disclosure of the type of information at issue and the harm that is necessary.

[73] I am not persuaded that the CBRM has overcome the hurdles listed above. The CBRM has simply said that disclosure of the records would cause harm and that it would jeopardize current negotiations and the potential for future negotiations and agreements with third parties, but it has not explained *how* this would occur. For example, why would release of an email discussing a draft press release cause the harm alleged? How would that affect the negotiating position of the CBRM? A bare assertion without anything further is not enough to satisfy me to the extent required by s. 481 that there was a sufficient prospect of the degree of harm that is contemplated by that subsection. There should be a clear and direct connection between the disclosure of the specific information and the harm that has been alleged. The CBRM did not set out such a connection in its arguments.

[38] NS Review Reports FI-09-100, FI-10-59(M), 16-01, 16-13.

[74] Overall, since the three parts of s. 481 must all be satisfied, I conclude that s. 481 does not apply to the withheld information.

Issue #4: Was the CBRM required by s. 480(1) of the *MGA* to refuse access to the record or any part thereof because disclosure of the information would be an unreasonable invasion of a third party's personal privacy?

[75] The CBRM relied on s. 480(1) of the *MGA* to withhold a small portion of the records released to the applicant (package #1). In all cases, the records were emails and the information severed was found within the "to" or "from" line of the header. More specifically, there were three ways the email address was severed based on the way the information appeared within the record: a name was displayed without showing the actual email address; the username was released but the domain portion was severed; or the entire email address was severed. In two cases, a first name only was severed from the body or the subject line of the email. In a few places, phone numbers were severed from the body of the email. In one case, an individual's signature block, containing name, organization, organization's web address and phone number, was severed. All emails were in a business capacity, as opposed to a personal one.

[76] The approach to the analysis of the meaning of an "unreasonable invasion of personal privacy" under s. 480 of the *MGA* is well established by the Supreme Court of Nova Scotia. In his decision in *Re House*, Justice Moir set out a four-step process:[39]

i. Is the requested information "personal information" within s. 461(f)? If not, that is the end. Otherwise, I must go on.
ii. Are any of the conditions of s. 480(4) satisfied? If so, that is the end.
iii. Is the personal information presumed to be an unreasonable invasion of privacy pursuant to s. 480(3)?
iv. In light of any s. 480(3) presumption, and in light of the burden upon the applicant established by s. 498(3)(a), does the balancing of all relevant circumstances, including those listed in s. 480(2), lead to the conclusion that disclosure would constitute an unreasonable invasion of privacy or not?

Position of the parties

[77] The applicant submitted no representations.

[78] The representations submitted by the CBRM regarding this exemption were scant: "We respectfully submit that the information…remain undisclosed to the Applicant. We submit that such disclosure would be an unreasonable breach of privacy." There was nothing further submitted in the CBRM's representations.

Analysis

[79] The personal information exemption is a mandatory exemption. This means that if the information meets the meets the test of the exemption (the "*House Test*" set out above), it cannot be disclosed. In this case, the CBRM has not demonstrated how the test has been applied. I must however, apply the test before I can make a finding as to if the exemption applies or not.

[39] House (Re), 2000 CanLII 20401 (NS SC), at para. 14.

Step 1: Is the requested information "personal information"?

[80] The first step is to determine whether or not the withheld information was personal information within the meaning of s. 461(f). Unlike several other jurisdictions, Nova Scotia's access to information and privacy laws do not specifically exclude business contact information from the definition of personal information. Business contact information typically includes name, position name or title, business telephone number, business address and business email or business fax number of the individual.[40] Thus, names, email addresses and phone numbers are personal information. This does not, of course, mean that the information must be withheld under s. 480(1). I will examine below whether or not the disclosure of this information would be an unreasonable invasion of a third party's personal privacy.

[81] However, one of the email addresses is the generic mailbox for a Cape Breton community, not for an individual. Another redaction of information is of an organization's web address. The exemption cannot apply to this information because it is not personal information.

Step 2: Are any of the conditions of s. 480(4) satisfied?

[82] The second step is to determine whether any of the conditions of s. 480(4) are satisfied. If they are, that ends the inquiry and the information cannot be withheld under s. 480(1). It is important to note that the names, email addresses and phone numbers were used strictly in a work context. In this case, s. 480(4) does not apply.

Step 3: Is the personal information presumed to be an unreasonable invasion of privacy pursuant to s. 480(3)?

[83] Section 480(3) creates a presumed unreasonable invasion of personal privacy for certain categories of records. None of the presumptions that favour non-disclosure are present in the withheld response package.

Step 4: Would the disclosure constitute an unreasonable invasion of privacy or not?

[84] The final step in the test is to determine whether or not, based on all of the relevant considerations, the disclosure of the information would result in an unreasonable invasion of a third party's personal privacy.

[85] Relevant factors that favour non-disclosure:

- None.

[86] Relevant factors that favour disclosure:

- All of the individuals are communicating in their professional capacity.
- The information does not shed light on or otherwise disclose personal details about the senders or recipients of emails.
- The disclosure is desirable for the purpose of subjecting the activities of the CBRM to public scrutiny.

[40] See for example British Columbia's *Freedom of Information and Protection of Privacy Act*, Schedule 1, or Ontario's *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F. 31, s. 2(3).

[87] In *Order F08-03,* former British Columbia Commissioner Loukidelis agreed that disclosure of the names of casino employees who had completed reporting forms in the course of their workplace duties was not an unreasonable invasion of personal privacy because such information lacks a distinctly personal dimension.[41] In other jurisdictions the courts have determined that this type of information does not even qualify as personal information because it is not "about" the individual. The Federal Court of Appeal used this analysis to determine that records or transcripts of air traffic control communications did not contain personal information about the employees.[42] Here, all the names and email addresses redacted were of either employees or third parties working with the CBRM.

[88] It is important to note that the *MGA* permits invasions of privacy. What it does not permit is *unreasonable* invasions of personal privacy. In the context of these records, and in these circumstances, I find that the disclosure of the names, email addresses and phone numbers of the third parties would not be an unreasonable invasion of their personal privacy pursuant to s. 480(1) of the *MGA.*

FINDINGS & RECOMMENDATIONS:

[89] I make five findings as stated below.

1. I find that the CBRM contravened s. 465(2) of the *MGA* by withholding the documents in full and not conducting a line-by-line review of the records.
2. I find the CBRM has failed to meet its duty to conduct an adequate search for the responsive records.
3. I find that s. 477 does not apply to the information withheld in full in package #2.
4. I find that s. 481 does not apply to the information withheld in full in package #2.
5. I find that s. 480(1) does not apply to the redacted information in package #1.

[90] I make four recommendations as stated below.

1. I recommend that the CBRM conduct a new and complete search for all the attachments noted in the attachment line and referenced in the body of emails. At the conclusion of the search, the CBRM should provide the applicant with a new open, accurate and complete decision that contains all of the missing records. The CBRM should take the findings and recommendations found in this review report into consideration when considering applying exemptions to the attachments. The decision is to be sent to the applicant and copied to the Information and Privacy Commissioner within 30 days of receipt of this report.
2. I recommend that the CBRM release all of the information withheld in full in package #2 pursuant to s. 477 to the applicant.
3. I recommend that the CBRM release all of the information withheld in full in package #2 pursuant to s. 481 to the applicant.

[41] BC Order F-08-03 at para. 87.
[42] *Canada (Information Commissioner) v. Canada (Canadian Transportation Accident Investigation and Safety Board)* 2006 FCA 157, leave to appeal denied [2006] S.C.C.A. No. 259. See also: Ontario MO 2362.

4. I recommend that the CBRM release all of the information redacted in package #1 pursuant to s. 480(1) to the applicant.

November 3, 2020

Tricia Ralph
Information and Privacy Commissioner for Nova Scotia

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