

**THE NOVA SCOTIA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT**

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT OF THE ENVIRONMENT AND LABOUR** to disclose a report on a petroleum tank replacement at a nursing home.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **April 10, 2002**

ISSUE: Whether **Section 20(2)(f)** of the **Act** supports the objections of the third party to the disclosure of the report.

In a Request for Review, under the **Freedom of Information and Protection of Privacy Act**, dated January 2, 2002, a third party asked that I recommend to the Department of Environment and Labour (the Department) that it reverse its decision to provide the Applicant with a copy of an environmental report into the replacement of an underground petroleum tank at a nursing home.

The Applicant had asked for records pertaining to the nursing home. The Department found a 20-page report done by an environmental engineering firm for the nursing home. A copy of the report was provided to the Department as required.

The Department determined that third party interests were involved and, in accordance with s. 22 of the **Act**, notified the third party and invited it to consent to the disclosure or provide reasons for objecting. The third party replied claiming that disclosure of the report would be a violation of its rights under s.20(2)(f).

Having considered the objections of the third party the Department decided to disclose the document and notified the Applicant and the third party of the decision. The third party filed this Request for Review in response to the decision.

In a representation to the Review the Department said that s.20(2)(f) could not be applied as an exemption because the report contained no personal information. The Department also considered whether the exemption under s.21(1) applied and determined it did not.

Several attempts by the Review Officer to contact the third party were unsuccessful.

Conclusions:

I have been provided with a copy of the Report for my Review. I agree with the Department that the Report contains no personal information and so cannot be exempted from disclosure under s.20(2)(f).

Section 21(1) obliges a public body to deny access to documents which would reveal trade secrets or financial, technical or scientific information about a third party if they were provided in confidence and if disclosure could reasonably be expected to do significant harm to the financial or competitive interests or the negotiating position of the third party. Without arguments from the third party, I agree with the conclusions of the Department.

In my view the Department can disclose the Report without violating any of the provisions of the **Act**.

Dated at Halifax, Nova Scotia, April 10, 2002

Darce Fardy, Review Officer