

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

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT OF COMMUNITY SERVICES** to withhold a letter from the Applicant.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **January 10th, 2003**

ISSUE: Whether the personal information contained in the letter, if disclosed, would be an unreasonable invasion of privacy of the individuals other than the applicant.

In a Request for Review under the **Freedom of Information and Protection of Privacy Act** (the **Act**), the Applicant asked me to review the decision of the Department of Community Services (the Department) to withhold a letter he requested.

The Applicant had asked for a copy of a letter that was received by the Department in or around April 1999 regarding the Applicant's daughter. He also asked for copies of any other information the Department may have obtained about his daughter. However, in a submission to the Review Office the Applicant addressed only the matter of the letter. The Department denied the Applicant access to the letter in full citing s.20(1) and s.20(2) of the **Act**. The letter contains the names of three third parties. The Department notified one of the them and she did not consent to the disclosure of her personal information.

In an oral submission to the Review Officer, the Department was more specific in citing the protection of personal privacy exemption. It indicated it was relying on s.20(2)(e).

The protection of privacy exemption is found in s.20(1) which requires a public body to refuse to disclose personal information to an applicant, “if the disclosure would be an unreasonable invasion of a third party’s personal privacy”. Subsections 20(3) and 20(4) describe circumstances where an unreasonable invasion of privacy would and would not be presumed. Subsection 20(2) provides a list of relevant circumstances which must be considered by a public body when determining whether disclosure of personal information would constitute an unreasonable invasion of privacy. One of the circumstances listed is found in part (e) of ss.20(2): “the third party will be exposed to financial or other harm.” The harm considered was not financial. The Department feels that disclosure of the document would expose a third party to “other harm”.

It should be noted that **Section 5(2)** expects public bodies, when a relevant document contains exempt information, to sever the exempt information and provide the rest to an applicant.

In accordance with **Section 38** of the **Act**, I have been provided with a copy of the letter at issue.

Conclusions:

I agree with the Department that personal information in the letter cannot “reasonably be severed”.

In my view none of the presumptions listed in s.20(4) apply. Even though the Department has not raised s.20(3), because the exemption here is mandatory, I have reviewed the presumptions listed in s.20(3) and find that none of them apply in this case. This brings me to the

relevant factors favouring disclosure or non-disclosure in s.20(2). I have considered the submissions of the Applicant, the Department, and the third party who objected to disclosure. Such cases are not easy to resolve. In other circumstances, where no harm is feared, this letter would be disclosed to the Applicant. In cases such as these, the Review Officer must balance the concerns of all parties.

I have concluded that the factors in favour of denying the Applicant access to the letter outweigh the factors in favour of disclosing it.

DATED at Halifax Nova Scotia on January 10th, 2003

Darce Fardy, Review Officer