

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

A REQUEST FOR REVIEW of a decision of three public bodies with respect to his request for records related to the reopening of the coke ovens of the Sydney Steel Corporation.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **January 22nd, 2003**

ISSUE: Whether an adequate search was undertaken to find the documents requested.

In a Request for Review under the **Freedom of Information and Protection of Privacy Act**, dated February 25, 2002, the Applicant said he could not accept the assertion of the Executive Council that it has no records related to the reopening of the Sydney Steel Corporation (Sysco) coke ovens in 1985.

The Applicant had originally asked for copies of, “all records pertaining to the 1985 reopening of the Sysco coke ovens”. He later reduced the scope of the application to all *Cabinet* records related to the reopening.

The application went first to the Executive Council which, in its response, said it “has no records that respond” to the application. During this Office’s mediation process, the Executive Council came to believe that the Office of Economic Development (the OED) may have records the Applicant was looking for and, subsequently, transferred the application there. The Executive Council said that in the meantime it would continue the search and if any were found

they would be processed and provided to the Applicant with the OED's response. The OED, during its consideration of the application, determined that if there were any records they would reside with the President of Sysco. The application was then transferred to Sysco.

The Applicant, on being told this, said that at the same time he made his application to the Executive Council he had made a request to Sysco outside of the **Act**, and had received some records he was looking for. However, they did not include *Cabinet* records.

At the request of the Applicant I undertook to determine if the search for records was adequate. To do so I asked Sysco to answer six questions, which it did.

By whom was the search conducted?

The FOIPOP Administrators of the Executive Council and the OED, an officer of the Treasury and Policy Board and the Chief Executive of Sysco.

What places were searched?

The Executive Council searched "indices and all actual files relating to Sysco" around the time period requested by the Applicant. The Treasury and Policy Board searched the indices, Sysco files and microfiche and reviewed all Minutes of Management Board meetings held during the time period. The OED conducted a computer search to generate an index of Sysco records which were reviewed by Sysco.

What types of files were searched?

All Sysco related documents held in the offices of Executive Council and Treasury and Policy Board as well as the indexes of the documents held by the former Department of Industry, Trade and Technology, now the OED.

What were the results of the searches?

The searches disclosed no Cabinet records pertaining to the 1985 reopening of the coke ovens.

Is it possible that such records existed but no longer exist?

Sysco considered this unlikely. Although all such transactions are said to be recorded in formal minutes now, this was not the case in 1985. I am told that had there been an Order in Council issued dealing with the reopening of the ovens, a Report and Recommendations to Cabinet supporting it would have been prepared. I am told that if the decision on the reopening were a policy decision it could have been made without a Memorandum to Cabinet or to the Management Board.

Conclusions:

I am satisfied that the public bodies involved did as much as they could be expected to do to search for documents related to the Application.

Dated at Halifax, Nova Scotia, this 22nd day of January, 2003.

Darce Fardy, Review Officer

