

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

A REQUEST FOR REVIEW of a decision of the **NOVA SCOTIA LIQUOR CORPORATION** for records related to appointments to the Board of Directors of the Corporation.

REVIEW OFFICER: Darce Fardy

REPORT DATE: April 26, 2002

ISSUES: Whether Sections 13(1) and 14(1) support the decision of the Liquor Corporation to deny access to information related to the appointments of members of the Board; and

Whether an adequate search was done.

In a Request for Review under the **Freedom of Information and Protection of Privacy Act**, dated February 25, 2002, the Applicant asked that I review the decision of the Corporation to deny him access to the documents he asked for.

The Applicant had asked for “all records pertaining to the screening and selection of applicants for the Board of Directors of the (Liquor) Corporation including records produced for the Executive Council.”

The application was responded to by the Department of Tourism and Culture whose Minister supervises the Corporation. The Applicant was told that access would be

provided to “all the records we have relating to setting up the screening panel, advertisements, etc., and a severed copy of the Report and Recommendations to the Executive Council” asking for approval to appoint board members. He was told information was severed because “it would disclose confidential advice or cabinet information.” The letter did not cite the number of the exemptions which support the severing, but they are consistent with the exemptions found in ss. 13(1) and 14(1) of the **Act**. The letter also said the screening and selection of applicants contained information exempt under s. 20(1) which protects against the disclosure of personal information.

During mediation the Applicant asked that I examine what he believes to be a paucity of records related to the appointments. The Department subsequently found another relevant document and agreed to provide it to the Applicant in severed form.

Section 5(2) obliges a public body, when only parts of a document fall under an exemption, to sever the exempt information and provide the rest of the document to the applicant if severing can be reasonably achieved.

Section 13(1) allows a public body to refuse to disclose information that would reveal the “substance of deliberations” of the Executive Council, including advice and recommendations. Subsection 13(2)(c) obliges a public body to provide background information used to present explanations or analysis if a decision has been made public or implemented.

Section 14(1) allows a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body or a minister. However, s.14(2) expects a public body to disclose background information used by the public body.

The Applicant made it clear he was not looking for the names and resumes of the applicants for the Board which were denied under s.20(1). He wants the Review Officer to satisfy himself that an adequate search for documents was carried out.

Conclusions:

I will consider first the severing of the Report and Recommendations to Cabinet. (R & R). The part of the R & R provided to the Applicant is background information with respect to the appointments to the Board of Directors. The severed material contains recommendations to the Executive Council related to the Board appointments. While much of that information is already in the public domain, the severing is, in my view, supported by ss. 13(1) and 14(1).

During the mediation process this Office exchanged e-mails with the Department asking it to confirm that the Review had been provided with all relevant documents in accordance with its obligations under s. 38(1)(a). This Office noted that there appeared to be no documents created on this subject between August 15 and 16, 2001, the dates on letters sent to the members of the Screening Panel, and November 15, 2001, when the R & R went to Cabinet. This led to the discovery by the Department of a letter to the

Minister from the screening panel, dated October 3, 2001, on the results of its work. It said it would disclose this letter to the applicant after severing names in accordance with s. 20.

Again this Office asked the Department to confirm that no relevant documents were created between October 3, 2001 and the date of the R & R. Our request for a further search was prompted by the contents of the letters to the members of the screening panel on August 15, which were provided to the Applicant. One was from the Minister. In those letters the panel was told that following its review of the applications, “a meeting and/or conference call will be arranged to identify the list of qualified candidates. Staff will be available to assist you in reviewing and compiling the list of qualified candidates.”

We were provided with a copy of an e-mail from one Department official to another confirming that no documents exist beyond those provided.

I am satisfied that no relevant documents were created between August 15/16 and October 3, or between October 3 and the date of the R & R, November 15, 2001.

Dated at Halifax, Nova Scotia

Darce Fardy, Review Officer