

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

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT ENVIRONMENT AND LABOUR** to extend the time for reply to an application for access.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **April 10, 2002**

ISSUE: Whether the Department acted in accordance with the Act when it extended the time for reply to the application.

In a Request for Review, under the **Freedom of Information and Protection of Privacy Act**, dated March 19, 2002, the Applicant asked that I review the decision to extend the time for a reply to his Application by thirty days.

The Applicant was told that the extension was necessary “to allow the Department to consult with third parties involved, and to ensure that all records have been obtained”.

The Application was received by the Department on January 25, 2002. It requested copies of “all memoranda, briefing notes, speaking notes, reports, advice to minister, communication strategies, communication plans, communication messages, e-mails (including back-up copies of any deleted e-mails) and written correspondence” prepared, sent or received by seventeen employees of the Department related to a water quality issue in the Annapolis

Valley. The Applicant later withdrew the request for the deleted e-mails. The Department puts the date of receiving the Application, after it was amended, at January 28, 2002.

In his Request for Review, the Applicant said the Department should have been able to determine the need to notify third parties within the first thirty day period after the Application was received. He said he suspected a deliberate delay.

The notice of a 30-day extension was sent to the Applicant by e-mail on March 19. He was promised a response by March 28.

Conclusions:

Section 7(2) expects a public body to respond to an Application within thirty days of receiving it. **Section 9(1)** allows a public body to extend the time for reply by thirty days, under certain conditions, or beyond that with the approval of the Review Officer. The conditions include: a large number of records is requested or more time is needed to consult with third parties.

The notice of the extension was sent to the Applicant some twenty days after the thirty day limit for a response had passed. The Department said it had problems contacting the Applicant but, in any case, it should have notified him of the extension, in writing, before the first thirty day time limit had expired. In this case, I have been asked to consider the decision to extend when the extension is already underway.

There is no doubt that the Application requires a considerable amount of searching for documents and a thirty day extension is not unreasonable. However, the Department did not follow the process it is obliged to under the **Act**.

I have no evidence to support the applicant's suspicion that the delay is deliberate.

Summary:

- The Department notified the Applicant of the extension eighteen days into the second thirty day period.
- The Department did not meet the extension date and entered into a second extension without the required approval of the Review Officer.

Recommendation:

That the Department commit itself to a procedure whereby decisions on the necessity of contacting third parties or on an extension are made within thirty days of receiving an application as is required to do under the **Act**.

Dated at Halifax, Nova Scotia, April 10, 2002.

Darce Fardy, Review Officer