

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

A REQUEST FOR REVIEW of a decision of the **DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS** to charge fees for documents related to renovations of Government House.

REVIEW OFFICER: Darce Fardy

REPORT DATE: June 6, 2002

ISSUE: Whether the fees charged for providing the documents related to renovations at Government House were fair and appropriate.

Whether the Applicant had been forced to resort to the Act when the documents could have been provided in response to a verbal request.

In a Request for Review dated March 11, 2002, the Applicant asked that I review the fees charged by the Department of Transportation and Public Works for providing documents related to recent renovations at Government House.

The Applicant had asked for “records, including receipts and invoices, for renovations and redecorating of Government House, both interior and exterior, from April 1, 2000 to the present.”

In a telephone conversation the Department offered the Applicant two options: (a) a photocopy of every invoice (some 300 or 400) or (b) a list of payees and amounts paid. I am told the Applicant chose option (b) which would require approximately five hours of work and 60 pages of copying. With the first two hours free, the fee would be \$20.00 an hour for a total of

\$60.00. Copying at \$.20 a page would amount of another \$12.00. In assessing the fees the Department was guided by the fee structure which is found in **Section 11(2)** of the **Act** and Section 6 of the Regulations.

The Applicant paid the \$72.00 and received the documents.

In his request for a review of the fees, the Applicant said he first requested the documents verbally from the Department's communications staff and subsequently made an application under the **Act** when the documents were refused. The Applicant, in his Request for Review, said he believes the fees he was charged are "onerous" and expressed the suspicion they were meant to frustrate his attempt to find out how much money taxpayers are spending on Government House. He also believes "there is a public interest in having this information released."

During the unsuccessful mediation process by this Office, the Department explained that the Applicant was offered a very short summary but wanted more of a breakdown.

During mediation attempts and the subsequent Review the Applicant did not return phone calls.

The Department referred me to its communications office for a response to the Applicant's expressed concern that he was required to make an application under the **Act** although the information could have been provided without such recourse. The communications office denied it suggested to the Applicant that he use the **Act** in his quest for the documents. It also denied it refused to provide documents. The office admitted it had some conversations with the Applicant with respect to the costs of renovating Government House.

Conclusions:

Having spoken with the communications office I am satisfied that, although conversations between the office and the Applicant may have led to misunderstandings, there was no attempt to force the Applicant to resort to the **Act**. Without hearing from the Applicant I am unable to reach any other conclusion.

However, given that the documents were provided without severing, there seems to have been no need for the Applicant to go beyond a verbal request. I am told the Government is promoting more routine disclosure. Documents containing no information that a public body believes to be exempt under the **Act** should be among those chosen for routine disclosure.

As noted above, the Applicant believes that the information he asked for should have been disclosed at no cost because it was a matter of public interest. **Section 11(7)(b)** allows a public body to waive fees if “the record relates to a matter of public interest, including the environment or public health and safety.” “Public interest” is not defined in the **Act**. In the words of the British Columbia Information and Privacy Commissioner, “(a)ny attempt to define exhaustively or finally what is meant by the term ‘public interest’ is doomed to failure.”

In earlier Reviews I have suggested questions which public bodies could ask themselves when deciding whether the matter is one of public interest which may warrant a fee waiver. The relevant ones in this case are, I believe:

- has the matter been a subject of recent public debate?
- would the dissemination of the information yield a public benefit by assisting public understanding of an important policy?

After considering these questions I am not prepared to agree that renovations of Government House are of such public interest as to warrant a fee waiver. The cost of the renovations fed “question period” during the latest session of the Legislature and made the front

pages of local newspapers but it did not reflect, in my view, an important public policy. It had a short shelf life in terms of public attention.

Most access legislation in the country charges fees for searching and processing documents. While the Applicant found the fees onerous it's my view they were reasonable. The fees charged were in accordance with the Regulations at that time: \$20.00 an hour for processing and \$.20 a page for copying. Fees have since been increased.

I agree with the Department's decision.

DATED in Halifax, Nova Scotia on June 6, 2002

Darce Fardy, Review Officer