

**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 sever documents before providing them to the Applicant.

REVIEW OFFICER: Darce Fardy

REPORT DATE: June 5, 2002

ISSUE: Whether the identity of a third party giving information to Community Services related to an alleged over-payment of income assistance ought to be released to the Applicant.

In a Request for Review under the **Freedom of Information and Protection of Privacy Act** (FOIPOP), dated March 25, 2002, the Applicant asked me to review the decision of the Department of Community Services to provide her with severed documents.

The Applicant had asked for copies of all the information in her the files related to an alleged overpayment of income assistance. The Department provided the Applicant with a copy of her file and told her that personal information about another person (a third party) had been severed in accordance with an exemption under FOIPOP. The Department did not cite the Section of the **Act** which supported its decision.

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 copies of the documents provided to the Applicant as well as the parts severed.

Conclusions:

A public body which turns down an application for access without citing an exemption is not acting in accordance with this **Act**. Section 7(2)(ii) requires a public body, when refusing all or part of a record, to give the reasons for the refusal as well as “the provisions of this **Act** on which the refusal is based.”

The Review Officer does not suggest exemptions for a public body to use to deny access, except in cases involving the protection of personal privacy. The protection of privacy exemption is found in **Section 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.” Subsection 20(2) provides a list of relevant circumstances which should be considered by a public body when determining whether disclosure of personal information would constitute an unreasonable invasion of privacy. Subsections 20(3) and 20(4) provide lists of circumstances whereby disclosure would be considered an unreasonable, and reasonable, invasion of personal privacy.

“Personal information” is defined in **Section 3(1)(i)** as recorded information about an identifiable individual. Individuals can be identified in some circumstances even if their names are not disclosed. In this case it is my view that the third party’s identity would be disclosed if any of the severed parts of the documents were provided to the Applicant.

I have considered ss.20(2)(e) which reads:

20(2) In determining . . . whether a disclosure of personal information constitutes an unreasonable invasion of a third party’s personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(e) the third party will be exposed unfairly to financial or other harm.

I have concluded that disclosing the information would expose the third party unfairly to harm.

In my view the severed material was appropriately denied in accordance with s.20(1), taking into account all relevant circumstances including s.20(2)(e).

DATED at Halifax Nova Scotia on June 4, 2002

Darce Fardy, Review Officer