

**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** with respect to an application for information regarding bridge inspections in the province.

**REVIEW OFFICER:** Darce Fardy

**REPORT DATE:** **October 21, 2002**

**ISSUE:** Whether the Department of Transportation and Public Works has fulfilled its obligations under the Act

In a Request for Review under the **Freedom of Information and Protection of Privacy Act**, dated June 10, 2002, the Applicant asked for a review of the fees being charged by the Department of Transportation and Public Works for documents related to bridge inspections.

The Applicant had originally asked for copies of all audits and inspection reports on Nova Scotia bridges since 2000 and any audits on bridge inspection reports since the same year. The Applicant subsequently clarified the request on March 8, 2002 by adding, “any documents sent to the deputy, assistant deputy minister or senior officials that discuss the condition of the provincial bridges”. He was provided with a fee estimate of \$15,697.00 for the inspection reports and \$1160.00 for the documents requested on March 8<sup>th</sup>. During the mediation process with this Office the Applicant further narrowed his request to copies of all quarterly

bridge reports since 2000. The Department waived the fees and granted the Applicant access in full to the quarterly bridge reports since 2000.

The Applicant decided to continue with his request for a review when he discovered that the quarterly bridge reports for the province's Central Region did not offer as much information as did the reports for the Northern, Western and Eastern Regions. Specifically, the quarterly bridge reports for the Central Region did not provide summaries of the handwritten bridge inspection reports as did the other regions.

The Department stated that the quarterly bridge report for the Central Region was different from the others but provides the same information. A sample copy of a Central Region quarterly bridge report provided to the Review Office that covered the period between September 1998 and June 2002 showed eleven columns, including the date of the inspection, the name of the bridge and the road it joins, the county it is in, the type of construction, and its "rating" on a scale of 1 to 7. A rating of 3-4 would indicate structural improvements are required.

The Applicant said the other reports include comments giving valuable meaning and context to the rating because they include information indicating the condition of the bridges before the inspection and any work that was done after the inspection. He wants the same kind of information from the Central Region. The Department said this information for the Central Region was in handwritten bridge inspection reports which the Department says it is unwilling to summarize because of the number of reports involved. According to a letter from the Department to the Applicant dated March 13, 2002, it is estimated that there are 200 of these handwritten reports in the Central Region totalling some 2600 pages.

**Conclusions:**

In my view, the only difference between the quarterly bridge reports for the Central Region and those for the other three Regions in the province is that those for the Central Region do not include an explanatory note or summary for each bridge inspection on the list. However, I have no reason to suspect that the Central District reports are deliberately different to hide information. I accept that this information does not exist in summary form electronically, but does exist in the handwritten reports to which I have previously referred. I am told the Department intends to standardize the process in the future.

In coming to my conclusions as to whether the Department has fulfilled its duties under the Act, I refer the parties to sections 7 and 8 of the Act. These sections provide, in part,

**Duty of head of public body**

**7 (1)** Where a request is made pursuant to this Act for access to a record, the head of the public body to which the request is made shall

- (a) make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely...

**Duties of head of public body where access given**

...

**Section 8(3)** of the Act requires a public body to create a record for an applicant if

- (a) the record can be created from a machine-readable record in the custody or under the control of a public body using its normal computer hardware and software and technical expertise; and
- (b) creating the record would not unreasonably interfere with the operations of a public body.

In my opinion the Department has fulfilled its duties under section 7 of the Act. In this case, the Applicant was granted access to the information responsive to the narrowed request. With regard to section 8(3) of the Act, it is my view that this section does not apply because the handwritten bridge inspection reports for the Central Region are not machine-readable, therefore the Department is under no obligation to create a record that conforms to those from the other three regions in the province. However, I appreciate the Applicant's position in receiving a document that was not the same as the others, and so I offer the following recommendation.

**Recommendation:**

- that the Department choose four bridges with a 3-4 rating, retrieve the hand-written notes for those bridges, and provide summaries to the Applicant.
- that the Department place priority on its plan to standardize the bridge inspection process so that records which are subject to access requests are more easily retrievable.

**Section 40** requires a public body to make a decision on these recommendations within 30 days of receiving this report, and to notify the Applicant and the Review Officer, in writing, of the decision.

**Dated** at Halifax, Nova Scotia, October 21<sup>st</sup>, 2002.

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Darce Fardy, Review Officer