REPORT **FI-02-84**

THE NOVA SCOTIA FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

A REQUEST FOR REVIEW of a decision of **NOVA SCOTIA BUSINESS INC.** to deny access to some documents related to the itinerary of a trade mission, and to sever information from others.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **November 26th, 2002**

ISSUE: Whether disclosing the details of a trade mission in which the Government of Nova Scotia participated would:

- disclose information received in confidence from another government. [s.12(1)(b)];

- reveal advice provided to the minister [s.14];

- harm the financial interests of the government and third parties [s.17];

- constitute an unreasonable invasion of personal privacy [s.20]; and

- harm the interests of third parties [s.21(1)].

In a Request for Review under the **Freedom of Information and Protection of Privacy Act**, dated September 9, 2002, the Applicant asked that I recommend to Nova Scotia Business Inc. (NSBI) that it provide the documents he asked for.

The Applicant wants a copy of "(t)he itinerary and any other document showing with whom the Minister of Economic Development met while on the Team Canada Trade Mission in Atlanta, Georgia from November 12 - 16, 2001". NSBI identified 21 records related to the application. Most of them are denied in their entirety.

NSBI cited five exemptions to support its decision:

s.12(1)(b)- information disclosed in confidence by another government;

s.14(1) - advice to a minister;

s.17(1) - harm to the government's economic interests;

s. 20(1) - protection of personal privacy; and

s. 21(1) - harm to a third party's financial or negotiating position.

While the Applicant asked for a fee waiver NSBI decided that the fee to be charged was too small to warrant requiring payment.

During this Office's mediation process, the Applicant said he was not interested in the cell phone numbers of those people who met with the Team Canada Atlantic Trade Mission.

NSBI provided a detailed submission, identifying each document and explaining its reasons for denying the documents in whole or in part. The documents were divided into three categories: the summary itinerary [denied under s.12(1)(b), 14(1), 17(1) and 20(1)]; the Nova Scotia business meeting itinerary [denied under s.12(1)(b), 14(1), 17(1), 20(1) and 21(1)]; and the Team Canada Atlantic itinerary [denied under s.12(1)(b) and 20(1)].

The Applicant chose not to address any of the exemptions cited although, with respect to personal information, the Applicant bears the burden of proof to show that disclosure of personal information would not constitute an unreasonable invasion of privacy [See Section 45(2)]. It is clear, from conversations with the Applicant, that he believes subjecting the Government to public scrutiny should outweigh the protection of personal privacy in this case. He explained that he is seeking information with respect to a project in the Minister's constituency which he says has sparked considerable public reaction.

In this Review I have chosen to provide the position of NSBI on each exemption cited, with the Review Officer's reaction.

S.12(1)(b) reads:

> 12(1)(b) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal information received in confidence from a government body or organization or their agencies unless the government, body, organization or its agency consents to the disclosure or makes the information public.

12(2) reads:

> The head of a public body shall not disclose information referred to in subsection (1) without the consent of the Governor in Council.

NSBI position on s.12(1)(b)and (2):

In its first submission to the Review Office, NSBI made reference only to section 12(1)(b) of the **Act** stating that while the summary and individual itineraries were produced by NSBI, significant portions of the information in the itineraries were received <u>in confidence</u> from either the Canadian Consulate in Atlanta (the Consulate) or the Team Canada Atlantic

Directorate (the Directorate), a federal government agency. It is NSBI's assertion that the disclosure of the supplied information would reveal information received in confidence from the Government of Canada or its agencies.

NSBI went on to say that it is not aware if either the Consulate or the Directorate made public the information exempted under this Section, and did not ask. NSBI said it chose not to notify either federal body because the information was denied under other exemptions as well.

While recognizing that s.12(1)(b) is a discretionary exemption, NSBI also cited s.12(2) which requires a public body to refuse to disclose information referred to in s.12(1) without the consent of the Governor-in-Council. Since consent was not requested of the Governor in Council and because other exemptions were claimed for the same information, NSBI said it "did not have the authority to apply discretion and was instead required by the Act not to disclose the information".

In a subsequent submission to the Review, NSBI said it "did not claim 'harm' under s.12(1)(a)" but rather, under s.12(1)(b), claimed that disclosure would "reveal... information received in confidence.."

Response of the Review Officer:

Section 12 of the **Act** recognizes the sensitivity of some documents exchanged between governments. The Nova Scotia Government must be able to assure other governments that it is prepared to receive information in confidence.

NSBI did not ask the Consulate, the Directorate or the Cabinet for consent to disclose the information. Nor did it ask if any of the information had been made public by the Consulate or the Directorate. While 12(1)(b) does not require proof of harm, unless it is apparent on its face, more than just assurances to the Review Officer that the information was provided in confidence is required.

During the Review I contacted the Atlanta Consulate and the Trade Canada Atlantic Directorate, which organized the Atlanta mission and both confirmed they expected the information to be kept private. I was told that getting company representatives to meet with provincial governments often requires an understanding that no details of the meetings will be revealed. I was also told that neither federal body would consent to the disclosure of the information.

In my view the fact that other exemptions are cited does not relieve NSBI of its obligation to notify the Consulate and the Directorate of the Application and to ask for consent. If it was not prepared to seek consent it should have rested its case on the other exemptions.

I also disagree with NSBI's apparent interpretation of s.12(2) that because it did not have the consent of the Cabinet, which it chose not to ask for, that it was required by the **Act** to refuse disclosure. In my view, NSBI was obliged to consider s.12(1) and, having concluded that the information sought could be disclosed, go to Cabinet to ask for consent. To suggest otherwise would mean a public body could avoid disclosing documents subject to consideration under s.12(1), merely by deciding not to approach the Cabinet.

However, after contacting the two federal bodies myself, I am satisfied that s.12(1)(b) supports the decision to deny some of the information under that exemption.

.....

S.14(1) reads:

> The head of a public body may refuse to disclose to an applicant information that would reveal advice, recommendations or draft regulations developed by or for a public body or a minister.

NSBI position on s.14(1):

NSBI submits that preparing an itinerary for the Minister for the Nova Scotia portion of the mission, "is providing advice and recommendations to the Minister about whom he should meet, where, in what location, the subject matter and whom should accompany him". The Minister could accept, reject or change the itinerary. NSBI advanced the argument that the itinerary was prepared in advance of travel and could "be changed on the fly while the mission was in progress". It also made the point that while the itineraries may not contain advice, they reveal advice.

NSBI provided the criteria used by the Government of Alberta for determining whether "advice" has been given:

- the information must be sought or expected;
- it must be directed towards taking an action; and
- the information must be directed to someone who can take or implement the advice.

NSBI believes the itineraries meet the definition of "advice" articulated by the Ontario Information and Privacy Commission because it relates "to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process".

Response of Review Officer:

In previous reviews I have adopted definitions of "advice" used by the Alberta and Ontario Information and Privacy Commissioners. Alberta's Commissioner defined it as "an opinion, view or judgement" based on the knowledge and experience of an individual and "expressed to assist the recipient whether to act and, if so, how"(Order 97-007). Ontario accepted "thoughts" and "views" if they lead to a course of action (Order M-457).

In my view, the itineraries do not meet the definitions above. "Advice" should be interpreted in the way a reasonable person would understand the word to mean and, in my view that's what the Alberta and Ontario Commissioners have done. The Nova Scotia Court of Appeal said such words as "advice" should be given their "ordinary meaning" (*McLaughlin v. Halifax-Dartmouth Bridge Commission* (1993), 125 N.S.R. (2d) 288). The Federal Court has said that public bodies "must choose the interpretation that least infringes on the public's right of access" (*Canada (Information Commissioner) v. Canada (Immigration and Refugee Board),* [1997] F.C.J. No. 1812).

It's worth noting that the Nova Scotia Legislature provided definitions in the **Act** for those words and phrases it felt needed them. "Advice" is not defined.

I do not agree with NSBI that an itinerary can be described as "advice" and have concluded that, where s.14(1) has been applied, the information cannot be denied under that exemption.

.....

S.17(1) reads:

> The head of a public body may refuse to disclose to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body or the Government of Nova Scotia or the ability of the Government to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose the following information:
>
> (a) trade secrets of a public body or the Government of Nova Scotia;
>
> (b) financial, commercial, scientific or technical information that belongs to a public body or to the Government of Nova Scotia and has, or is reasonably likely to have, monetary value;
>
> (c) plans that relate to the management of personnel of or the administration of a public body and that have not yet been implemented or made public;
>
> (d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;
>
> (e) information about negotiations carried on by or for a public body or the Government of Nova Scotia.

NSBI position on s.17(1):

NSBI says it is exercising the necessary diplomacy and confidentiality in "the very competitive business of investment prospecting...Anything that erodes or negates Nova Scotia's

competitive advantage in investment attraction is harmful to the economic interests of the Government of Nova Scotia and the ability of the Government to manage the economy". NSBI submits that "disclosure would also lead to premature disclosure of a project or proposal, speculation about the subject business and its investment interests or activities in Nova Scotia, and there is a reasonable likelihood disclosure would afford a third party who gains access to the information to unduly profit from use of the information".

In weighing the importance of keeping the information in the itineraries private against the Government's responsibility to be open and accountable, NSBI believes "the likelihood and severity of the harm that could result, decisively outweighed any benefits in terms of openness and public accountability that may arise from disclosure".

Response of Review Officer:

I have examined each sub-section of s.17(1). In my view the itineraries do not meet the definition of "trade secrets" which is found in Section 3(n) of the **Act**: "'trade secret' means information, including a formula, pattern, compilation, program, device, product, method, technique or process". NSBI did not address this sub-section.

With respect to subsection (b) it is my view that some of the information in the itineraries could be described as "commercial" information but NSBI did not provide adequate proof of harm.

With respect to subsection (c), the itineraries contain no plans for the management of personnel.

To claim the exemption under (d), NSBI must first demonstrate that the itineraries represent a "proposal" or "project" and that disclosure at this time would be premature. As well, it must show that disclosing them "could reasonably be expected to harm the financial or economic interests of a public body or the Government of Nova Scotia or the ability of the Government to manage the economy".

In my view there is no "proposal" or "project" found in the itineraries. A "proposal"is defined in *Black's Law Dictionary* (4th ed.) as "an offer by one person to another, of terms and conditions with reference to some work or undertakings". The definition of a "project", found in any household dictionary, gives it the "ordinary meaning": a plan, a scheme, an undertaking, an enterprise.

Since no third parties have been notified of this Application NSBI was able to provide no evidence that disclosure would result in undue financial loss or gain for them.

With respect to clause (e) there has been no claim by NSBI that the itineraries contain information about negotiations.

The list of the kinds of information captured by this exemption is not exhaustive, though it reveals what the Legislature had in mind to protect government interests. Arguing that disclosure would "erode or negate" the Province's competitive advantage is too broad a claim, unaccompanied as it is, by evidence. NSBI is required to show proof that disclosure "could reasonably be expected to harm the financial or economic interests" of NSBI or the Government of Nova Scotia or the ability of the Government to manage the economy. In my view no such proof has been provided.

I have concluded that NSBI's decision to apply s.17(1) cannot be supported.

.....

S.20 reads:

Personal information

20 (1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining pursuant to subsection (1) or (3) 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

> (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Nova Scotia or a public body to public scrutiny;
>
> (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment;
>
> (c) the personal information is relevant to a fair determination of the applicant's rights;
>
> (d) the disclosure will assist in researching the claims, disputes or grievances of aboriginal people;
>
> (e) the third party will be exposed unfairly to financial or other harm;
>
> (f) the personal information has been supplied in confidence;
>
> (g) the personal information is likely to be inaccurate or unreliable; and
>
> (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(a) the personal information relates to a medical, dental, psychiatric, psychological or other health-care history, diagnosis, condition, treatment or evaluation;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) the personal information relates to eligibility for income assistance or social-service benefits or to the determination of benefit levels;

(d) the personal information relates to employment or educational history;

(e) the personal information was obtained on a tax return or gathered for the purpose of collecting a tax;

(f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

(g) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(h) the personal information indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or

(i) the personal information consists of the third party's name together with the third partys address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting anyone's health or safety;

(c) an enactment authorizes the disclosure;

(d) the disclosure is for a research or statistical purpose and is in accordance with Section 29 or 30;

(e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(f) the disclosure reveals financial and other similar details of a contract to supply goods or services to a public body;

(g) the information is about expenses incurred by the third party while travelling at the expense of a public body;

(h) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a public body, not including personal information supplied in support of the request for the benefit; or

(i) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of the request for the benefit or is referred to in clause (c) of subsection (3).

(5) On refusing, pursuant to this Section, to disclose personal information supplied in confidence about an applicant, the head of the public body shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information.

> (6) The head of the public body may allow the third party to prepare the summary of personal information pursuant to subsection (5). 1993, c. 5, s. 20.

NSBI position on s.20.

NSBI made the decision to disclose the names of the Nova Scotia delegation to the mission in accordance with s.20(4)(e).

With respect to ss. 20(3), which contains a list of the kinds of personal information presumed to constitute an unreasonable invasion of personal privacy if disclosed, NSBI believes it found one clause of "direct relevance": s.20(3)(d). This refers to personal information relating to an individual's employment or educational history. It argues that identifying the name of an individual and the business or organization the individual works for would reveal the individual's employment history which is presumed to be an unreasonable invasion of privacy. In defence of this position it cited the Alberta Government's Guidelines and Practices manual on its access and privacy legislation.

> Employment history refers to any information regarding an individual's work record, including the name of an employer, past or present, the term of employment, the duties associated with the position, the individual's salary, reasons for leaving, and any evaluation of job performance.

NSBI also quoted from the British Columbia Government's manual which agreed with Alberta.

NSBI also considered the factors found in s.20(2) and concluded that because s.20(2)(a) did not provide sufficient strength to override the presumption of unreasonable invasion of privacy the weight tips in favour of non-disclosure.

NSBI concluded that "in the spirit of openness" it was prepared to disclose "as much non-personal information (business address, office telephone number, position title) as possible".

Response of Review Officer:

If the business address, office telephone number or position title identifies an individual, then that information meets the definition of personal information. A determination would have to be made of whether disclosing that information would be an unreasonable invasion of personal privacy.

I agree with NSBI's approach to consider s.20(4) first because if the presumption in s.20(4) applies there is no need to consider subsections (3) or (2), and the personal information must be disclosed.

In considering s.20(4) NSBI appears to have overlooked clause (a) which says the disclosure of personal information is not an unreasonable invasion of privacy if the third party provides written consent. In this case no consent was asked for. The individuals whose names were in the documents were not notified of the application.

However, I do not agree with the conclusion of NSBI that the name a company which an individual works for represents that individual's "employment history".

I have adopted the view of the Ontario Information and Privacy Commissioner that the term "refers only to past employment and not to aspects of current employment such as an employee's current salary or job position" (Order R 980015).

In *Dickie v. Nova Scotia (Department of Health)* [1999] N.S.J. No. 116, the Nova Scotia Court of Appeal said the words "employment history" and the context in which they are used in the Act "suggest that the ordinary meaning of the words in the employment context is intended. In the employment context, employment history is used as a broad and general term to cover an individual's work record".

The information denied under this section does not fit under s.20(3) which lists the kinds of personal information which, if disclosed, would be deemed to constitute an unreasonable invasion of privacy. Neither does it fit under s.20(4), which lists personal information deemed not to be an unreasonable invasion of privacy, except under (a), and NSBI chose not to ask for consent.

In my view, NSBI, by relying solely on s.20(3)(d), has not successfully relied on this section to deny the personal information at issue.

Having failed to find that the personal information falls within ss. 20(3), one must examine s.20(2) which provides relevant circumstances to be considered when determining if disclosure would constitute an unreasonable invasion of privacy. NSBI found support in part (f): the personal information was provided in confidence. The Applicant argues that part (a) is relevant in considering disclosure, because disclosure of the personal information is desirable to hold Government actions up to public scrutiny.

In considering the two circumstances, I have concluded that the protection of some of the personal information, in this case, outweighs the factor favouring disclosure in the interest of public scrutiny.

.....

S.21(1) The head of a public body shall refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party;

(b) that is supplied, implicitly or explicitly, in confidence; and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour-relations dispute.

(2) The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax.

(3) The head of a public body shall disclose to an applicant a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an enactment.

(4) Subsections (1) and (2) do not apply if the third party consents to the disclosure. 1993, c. 5, s. 21.

NSBI Case:

The information denied under this exemption contains specific business and commercial interests of a third party. It was provided implicitly in confidence and disclosure would:

- affect the companies' competitive positions;
- affect the companies' negotiating position with other jurisdictions with which they may be interested in investing;
- curtail and prevent NSBI from receiving the type of information when it is critical to NSBI's success of growing the Nova Scotia economy to identify, prospect and investigate investment opportunities; and
- afford a third party who gains access to the information to unduly profit from its use.

Review Officer's position:

Only small portions of the documents are denied under this Section.

S.21(1)(a), (b) and (c) must be read conjunctively. A three-part test must be passed before this exemption can be successfully claimed. A public body must be satisfied that the information it is denying under this section contains

trade secrets or commercial, financial or technical information,

which was provided implicitly or explicitly in confidence, and

which, if disclosed would

> do significant harm to the third party's competitive position or
>
> interfere significantly with its negotiating position;
>
> result in undue financial loss or gain to any person or individual; or
>
> result in similar information no longer being supplied to the public body.

In my view NSBI is not in a position to know what harm would come to the interests of the third parties because it did not consult them.

I have concluded that those portions of the documents denied under this section contain commercial information that was supplied implicitly in confidence to NSBI. The first two parts of the three-way test have been satisfied.

With respect to "proof of harm" the British Columbia Information and Privacy Commissioner believes: "(e)vidence of speculative harm will not meet the test, but it is not necessary to establish certainty of harm. The quality and cogency of the evidence must be commensurate with a reasonable person's expectation that the disclosure of the requested information could cause the harm specified in the exception. The feared harm must not be imaginary or contrived" (Order No. 00-39).

Without any proof of harm from NSBI, I felt obliged, given that s.21(1) is a mandatory exemption, to contact the Consulate and the Directorate for their views. Following my

discussions I am satisfied that disclosing those parts of the documents denied under s.21(1) would result in a reasonable expectation of one or more of the harms set out in s.21(1)(c).

I am satisfied that s.21(1) is appropriately applied.

Summary:

NSBI received an application for access to a copy of an itinerary showing with whom the Minister met while on a trade mission to Atlanta, Georgia. In its response to the Applicant it refused most of the information citing:

- confidential information received from the Federal Government;
- advice to the Minister;
- harm to the Government's economic interests;
- the protection of personal privacy; and
- harm to a third party's financial or negotiating position.

S.12(1)(b) allows NSBI to refuse to disclose information provided in confidence from two federal bodies unless they provide consent. The federal bodies were not asked for consent. When contacted by the Review Officer the two federal bodies confirmed that the information in the itineraries was provided by them in confidence. I am satisfied this subsection supports the decision to deny some of the information in the itineraries.

NSBI argued that the itineraries contain advice to the Minister [s.14(1)]. I disagree with NSBI that an itinerary can be defined as "advice", and conclude that this exemption does not stand.

With respect to s.17(1), I conclude that NSBI does not provide adequate proof of harm to the Government by the disclosure of the itineraries.

The only subsection of s.20(1) argued by the Department is that the personal information of third parties should be denied because the itineraries contain their "employment history" (It's noted that NSBI did not notify the third parties of the Application and thus do not know if they would consent to disclosure of their names or titles). I disagree with NSBI that the place of work of an individual can be described as "employment history".

I conclude that NSBI cannot rely on the presumptions found in s.20(3) or in s.20(4), except under part(a) which cannot apply because consent was not requested. In examining the relevant circumstances to be considered in s.20(2), I have concluded that, in this case, the protection of personal privacy outweighs the need for public scrutiny.

Although NSBI was unable to show proof of harm to third parties because it did not consult the third parties themselves, s.21(1) is a mandatory exemption and as the Review Officer I was obliged to consult two federal bodies who arranged the itineraries. I have concluded that s.21(1)(c)(ii) applies.

Conclusions & Recommendations:

For this Review, NSBI's case rests on s.12(1)(b).

I will refer to the documents at issue separately and identify them by document number because some of them have been denied in their entirety.

Document #1:

In my view, **it is not reasonable to conclude that confidentiality** would be abridged by disclosing the participants at the meetings at 10 am, 10:30 am, 12:00 pm and 1:30 pm on November 13; and at 8:30 am, 10:30 am, 12 pm, 2:30 pm and 4:30 pm on November 14 (including the name of the public servant). It is not reasonable to conclude that confidentiality would be expected regarding the agenda items at 6:30 pm and 7 pm on November 14 and the entire agenda of November 15 including the note at the bottom of the page. I am satisfied that it is appropriate not to disclose the names.

Document #2:

This is one of the two items in the entire agenda described as a "business meeting". Although most of the information denied is on a website, the last paragraph indicates that this information would have been **communicated in confidence.**

Document #3:

Again most of this information is on a website. However, given the content of the final sentences **it is reasonable to conclude that this information was provided in confidence.**

Document #4:

It is **reasonable to conclude that this information was provided in confidence**.

Document #5:

The only portion of this document denied under s.12(1) is a description of a third party's operations which for the most part is available on the internet or is publicly accessible. It is **not reasonable** to assume that this information was **provided in confidence**. A portion of this document is denied under s.21(1). I have agreed that this denial is appropriate. I also accept the severing of the personal names of individuals who are not public servants along with their titles.

Document #6:

All of the information in the first three paragraphs of this document is the type of information publically available on this third party's website. There is already a relationship between this third party and the Government. With the exception of the last sentence it is **not reasonable** to conclude that this information was **provided in confidence**.

Document #7:

It is **not reasonable** to conclude that this information was **provided in confidence**.

Document #8:

NSBI cited only Sections 14(1), 17(1) and 20(1) on this document. I have concluded that exemptions under 14(1) and 17(1) do not stand. I am satisfied that the names of individuals who are not public servants can be denied. Having said that it is my view that their titles, because they are identifying information, can also be denied.

Document #9:

It is **not reasonable** to conclude that this entire document was **communicated in confidence.**

Document#10:

It is **not reasonable** to conclude that the information in this document was **provided in confidence**.

Document #11:

It is **not reasonable** to conclude that the information in this document was **provided in confidence**.

Document #12:

It is **not reasonable** to conclude that the information in this document was **provided in confidence**.

Document #13:

It is **not reasonable** to conclude that the information in this document was **provided in confidence**.

Document #14:

This agenda item has already been disclosed on the Team Canada Atlantic website and **cannot be denied** under s.12(1)(b). The names of the participants **cannot be denied** under s.20(1) because their titles, which have not been denied under this section, would identify them anyway. Most of the names are of public servants.

Document #15:

It is **not reasonable** to conclude that this information has been **communicated in confidence**.

Document #16:

It is **not reasonable** to conclude that this information was **provided in confidence**. The results of this document have appeared on the Team Canada Atlantic website.

Document #17:

It is **not reasonable** to conclude that this information was **provided in confidence**.

Neither is it reasonable to deny the names of the public servants.

Document # 18:

It is **not reasonable** to conclude that this information was **provided in confidence** nor that the names of public servants be denied.

Document #19:

This third party already has operations in Nova Scotia. It is **not reasonable** to conclude that all of this document was **provided in confidence**.

Document #20:

It is **not reasonable** to conclude that this information was **provided in confidence**.

Attached to the copy of this Report intended for NSBI is a copy of the documents with the severances I accept highlighted.

S. 40(1) requires NSBI to make a decision on these recommendations within thirty days of receiving them and to notify the Applicant and the Review Officer, in writing, of this decision.

Dated at Halifax, Nova Scotia, November 26th, 2002.

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Darce Fardy, Review Officer