

**THE NOVA SCOTIA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT
(MUNICIPAL)**

A REQUEST FOR REVIEW of a decision of the **HALIFAX REGIONAL POLICE** with respect to an application for access to records involving a member of the police force.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **March 22, 2004**

ISSUE: Whether the Applicant has received copies of all of the records he asked for.

In a Request for Review under **Part XX of the Municipal Government Act**, (the MGA), dated July 22, 2003, the Applicant asked that I recommend to the Halifax Regional Police that it provide him with all of the records he asked for.

The Applicant filed an application for access to the Halifax Regional Municipality dated April 21, 2003. The Applicant's request was lengthy but in brief he asked for all his personal information and all records which mentioned his name, in the custody of either the Halifax Regional Municipality or the Halifax Regional Police (HRP). Included was a request for copies of recorded images either on videotape, in still photographs or recorded conversations.

Background:

The Applicant has had long-standing differences with the HRP. He was disciplined for activities he undertook while on sick leave. According to news reports in January of this year he sued the HRP as well as the Halifax Regional Municipality for defamation. That case has not yet been heard by the Nova Scotia Supreme Court.

The Municipality processed his application with regard to records in its custody and advised the Applicant that it was transferring the application to HRP “because that body has custody or control of the majority of the records you applied to see.”

HRP initially responded indicating that, in its opinion, the Applicant already had copies of the records he was seeking. The Applicant was not satisfied with this response and an exchange of correspondence on costs and fees for the application followed.

In a letter dated July 11, 2003, HRP asked the Applicant to be more specific in what records he was seeking to obtain.

In his letter to the Review Office dated July 22, 2003, the Applicant asked for a review of the actions of HRP with respect to his access application. He also asked that the Review Officer recommend to HRP that it provide full disclosure of the records he seeks.

The Review Office’s mediator contacted the Applicant in an effort to clarify the scope of his application and to determine what records he had already received from HRP. The Review Office also urged HRP to make a proper decision with respect to the application.

HRP made a decision dated October 16, 2003 and told the Applicant that the records requested “have already been disclosed through Human Resources or pursuant to the Police Act Investigative processes.”

The Applicant’s representation:

The Applicant believes that “there is a significant amount of material that HRP has not disclosed to me to date.” He believes some thirty police officers and civilian staff, whom he named in his correspondence with the Review Office, would have records about him.

The police maintain he has been given all relevant records.

Conclusions:

The records provided to the Applicant, and those in the files of HRP, were made available to the Review Office. We spent a significant amount of time reviewing the records held by the HRP in an attempt to match them with records the Applicant received from the HRP and which he provided for the Review.

It is not possible to say with certainty that the Applicant has been provided with all relevant records. However, I am satisfied that most of the records have been provided to the Applicant, one way or another. There may be some records still unaccounted for but this would appear due to volume and record keeping practices rather than any deliberate attempt to deny the Applicant the records. In any event with the commencement of the civil action, the Applicant will be able to continue his search for documents through other avenues.

Section 467 of the MGA obliges the HRP to “make every reasonable effort to assist the Applicant” and to respond to applications openly, accurately and completely. The response the Applicant received from the HRP did not, in my view, meet the expectations of that Section, including its failure to provide a decision to the Applicant until reminded of its responsibilities by the Review Office.

Recommendation:

That HRP write to the Applicant confirming its decision of October 16, 2003.

That HRP review its procedures for processing applications for access in accordance with **Part XX of the Municipal Government Act**.

Section 493 of the Act requires the responsible officer to make a decision on these recommendations within 30 days of receiving them and to notify the Applicant and the Review Officer, in writing, of that decision. If a written decision is not received within 30 days, the Halifax Regional Police is deemed to have refused to follow these recommendations.

Dated at Halifax, Nova Scotia this 22nd day of March, 2004.

Darce Fardy, Review Officer