

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

A REQUEST FOR REVIEW of a decision of the **NEW GLASGOW POLICE SERVICE** in response to an application for access to records related to an investigation of the Applicant.

REVIEW OFFICER: Darce Fardy

REPORT DATE: March 9, 2004

ISSUE: Whether disclosing the entire records related to the application would constitute an unreasonable invasion of third parties' personal privacy and would therefore be exempt under **Section 480** of Part XX of the Municipal Government Act.

In a Request for Review under **Part XX of the Municipal Government Act** (the MGA), dated December 16, 2003, the Applicant asked that I recommend to the **New Glasgow Police Service** (the Police Service) that it disclose relevant records in their entirety.

The Applicant had asked for all information in the New Glasgow Police Service's records related to an investigation carried out by them to assist in a larger investigation by the Kentville Police Department.

In its reply to the application, the Police Service told the applicant he was being provided with "all information referring to a file assisting the Kentville Police Dept. in an

investigation file (File # 2003-0113), which is presently before the provincial court in the town of Kentville.”

When the Police Service provided the Review Office with copies of the records provided to the Applicant in accordance with **Section 491(a)**, it was noted that some of the records had been severed. The letter of decision did not cite what exemptions in the **Act** were used to support the decision to sever.

Both parties were invited to make submissions to the Review Officer. Only the Applicant did. In a written submission he said he believed he was entitled to all parts of the records because, in his view, the police had misled him.

Conclusions:

The Police Service did not follow proper procedures in dealing with this Applicant. He should have been told that a decision had been made to sever some parts of the records and he should have been advised that he could request a review of the decision by the Review Officer.

However, it is obvious the records were severed under **Section 480** which obliges a municipal body to refuse to disclose personal information if disclosure constitutes “an unreasonable invasion of a third party’s personal privacy.” For that reason I am prepared to review the decision.

The records were severed of names related to a fraud investigation carried out by the Police Service. Since the Applicant made no specific complaint about the absence of the

names from the records he received, I have concluded they are of no importance to him. Consequently there is no need to examine all of the factors and circumstances of s.480 which offer guidance in determining whether the disclosure of the names would be an unreasonable invasion of personal privacy.

I have seen no evidence that the police have misled the Applicant, as he claims.

Recommendations:

That, in the future, the New Glasgow Police Service, follow the proper procedures in responding to applications for access to information under the *Municipal Government Act*. It must cite exemptions in its FOIPOP decisions if information is being severed and make sure the decision includes a paragraph advising the Applicant of his right to ask for a Review.

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.

Dated at Halifax, Nova Scotia this 9th day of March, 2004.

Darce Fardy, Review Officer