

**THE NOVA SCOTIA FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY ACT**

A **REQUEST FOR REVIEW** of a decision of the **DEPARTMENT OF FINANCE** to sever records provide to an applicant.

**REVIEW OFFICER:** Darce Fardy

**REPORT DATE:** **September 17, 2004**

**ISSUE:** Whether parts of records requested by the Applicant can be denied in accordance with Section 14(1) because they would reveal advice or recommendations to a public body or a minister; and Section 17(1)(b) because disclosure would harm the economic interests of the Province.

In a Request for Review in accordance with the **Freedom of Information and Protection of Privacy Act (FOIPOP)**, dated June 22, 2004, the Applicant asked that I recommend to the Department of Finance (the Department) that it disclose the records he asked for in their entirety.

The Applicant had asked the Department for copies of all records, including letters, e-mails and memos, pertaining to his pension with the Province and the transfer of his pensionable service from another province. The Department provided the Applicant with 165 pages of documents, parts of which were denied in accordance with Section 14(1) of FOIPOP, a discretionary exemption which allows a public body to “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.”

Subsequently the Department informed the Applicant and the Review Officer that it was also claiming s.17(1)(b) on one particular document, a chartered accountant’s report. Section 17(1)(b) is a discretionary exemption which allows a public body to deny access to the information which contains financial information of a public body or the government “that has, or is reasonably likely to have monetary value.”

*The Department’s submission:*

The Department said that in claiming an exemption under s.14(1) it used its discretion to deny access by balancing the right of the Applicant to access to his own personal information with the Department’s right “to freely give and receive advice.” It said that the information denied “provides options unfavourable to the public body, as well as views, opinions and reactions to the advice contained in” a chartered accountant’s report.

With respect to s.17(1)(b), which is claimed only on the chartered accountant’s report, the Department said that “(d)isclosure of this information will prejudice the Province’s ability to effectively negotiate a settlement resulting in an additional financial burden being placed on the Province.”

*The Applicant’s submission:*

The Applicant argues that the information denied is his own personal information which he has a right to receive under Section 2(a).

**Conclusions:**

I will deal first with the chartered accountant's report, parts of which have been denied under both s.14(1) and s.17(1)(b). Having read the report, it is clear it was prepared to give advice to the Department. I am satisfied that s.14(1) is properly cited on this report and that the Department demonstrated it used its discretion while reaching that conclusion. The Department recognized its obligation, in accordance with s.14(2), to disclose the background information in this report. Having accepted the s.14(1) exemption on this record there is no need for me to consider s.17(1)(b).

The Applicant argues he should receive the severed parts because they contain his personal information. "Personal information" is defined in **Section 3(1)(i)** as "recorded information about an identifiable individual," including an individual's:

- name, address and telephone number;
- race or ethnic origin;
- age, sex and marital status;
- health-care history;
- educational and employment history; and
- anyone else's opinion about the individual.

The remaining records are copies of correspondence between the deputy ministers of Finance and Community Services. I have concluded that none of the severed portions of those letters contains the personal information of the Applicant.

**Recommendations:**

That the Department write to the Applicant with a copy to the Review Officer confirming its original decision on this application.

**Section 40** of the Act requires the Department of Finance to make a decision on these recommendations within 30 days of receiving them.

**Dated** at Halifax, Nova Scotia this 17th day of September, 2004.

Darce Fardy, Review Officer