

**PART XX OF THE MUNICIPAL GOVERNMENT ACT -
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY**

A REQUEST FOR REVIEW of a decision of the Halifax Regional Municipality to deny access to the personal information of third parties.

REVIEW OFFICER: Darce Fardy

REPORT DATE: May 27, 2005

ISSUE: Whether disclosing names on records constitutes an unreasonable invasion of the personal privacy of third parties [Sections 480(1) and 480(3)].

In a Request for Review under **Part XX of the Municipal Government Act** (the MGA) the Applicant asked that I recommend to the **Halifax Regional Municipality** (HRM) that it reverse its decision and disclose all relevant records in their entirety.

The Applicant had asked the Municipality's Fire and Emergency Service for all records related to the inspections of property in downtown Halifax. HRM agreed to partially disclose the records requested after severing personal information in accordance with **Section 480(1)** and **Section 481(1)(c)(ii)**. HRM subsequently, during the review process, changed the second exemption cited to s. **480(3)(b)**.

480 (1) The responsible officer shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

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

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

The personal information withheld contains the names of those involved in the investigation, including complainants and a city councillor.

The Applicant's submission:

The Applicant said he rejected the reasons HRM used for severing the records because "the relevant third party author would suffer no prejudice if his or her identity became known"; and "if our client were to proceed with a civil action against the Municipality, the Municipality would be compelled to deliver an unedited version of the document to us." The Applicant also commented on the exemption s.481(c)(ii) because he was unaware at the time that HRM had said it erred to citing that exemption and cited s.480(3) instead.

Conclusions:

When considering exemptions under s.480 I am obliged to follow the procedure laid down by the Nova Scotia Supreme Court in *Cyril House* S.H. 160555, April 20, 2000. (unreported)

Justice Moir concluded that a public body, when determining whether the disclosure of personal information is an unreasonable invasion of a third party's personal privacy should look first to subsection 480(4) and if any of the nine circumstances apply then disclosure would not be an unreasonable invasion of personal privacy and there would be no need to consider subsections (3) or (2). If ss. (4) does not apply both ss.(3) and (2) must be considered.

I have examined those circumstances in (4) and have concluded that sub-section 480(4)(e) applies because the naming of the city councillor is in my view, related to the councillor's functions as an elected member. Disclosing his or her name is not, therefore, an unreasonable invasion of his or her privacy.

The names of the complainants and other individuals in the records are appropriately denied in accordance with the sub-section cited by HRM.

Recommendations:

That HRM disclose, in addition to what it has already disclosed, the name of the city councillor which was severed.

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 Municipality is deemed to have refused to follow these recommendations.

Dated at Halifax, Nova Scotia this 27th day of May, 2005.

Darce Fardy, Review Officer
