

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

A **REQUEST FOR REVIEW** of a decision of **NOVA SCOTIA ENVIRONMENT AND LABOUR** with respect to an application for records regarding an on-site septic system.

REVIEW OFFICER: Darce Fardy

REPORT DATE: July 26, 2005

ISSUE: Whether an adequate search was done to find the records requested, in accordance with **Section 7(1)(a)** of the *FOIPOP Act*.

In a Request for Review, dated April 12, 2005, under the **Freedom of Information and Protection of Privacy Act (FOIPOP)**, the Applicant asked the Review Office to investigate the response he got to his Application.

He had asked for copies of all records in the files of the Nova Scotia Environment and Labour (the Department) respecting the approval of a septic system for his new home. The Department provided him with 54 records, with one record severed of personal information in accordance with **Section 20** of *FOIPOP*.

The Applicant's submission:

The Applicant has no issue with the part withheld under s.20 but suspects there must be more records related to the matter which he has not received. Among the records he believes to

be missing are: correspondence between the Department and the private contractor; a report related to the construction of the Applicant's septic tank field; and the official's final inspection report. These records were referred to in the documents provided to the Applicant by the Department.

During the Review process I was told that the final inspection report was not yet complete. The Applicant can't believe this report is not yet complete.

Conclusions:

At my request the Department's FOIPOP Administrator provided the Review Office with details of the process used when searching for records in response to applications under the *Act*. The process appears to be thorough but, in this case, it's difficult for me to determine if an adequate search for the records has been carried out or if staff of Environment and Labour has given the application the kind of attention required by Section 7(1)(a): "to make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely." During this review, the Department was slow to respond to queries from the Review Office.

Although the Administrator said she made follow-up telephone calls to the Department's Bedford office to ask for further searches, I'm left with doubt that no more records related to this matter exist in the Department.

In this case, the Department's efforts to assist the Applicant, in my view, fell short of expectations.

Recommendations:

- that the Department continue searching for relevant records and, in the absence of any exemptions, provide any that are found to the Applicant without delay;
- and that all staff be reminded of the importance of co-operating with the FOIPOP Administrator's office, and of their obligations to search for records thoroughly and promptly in accordance with *FOIPOP*.

Section 40 of the Act requires the Department 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 Department is deemed to have refused to follow these recommendations.

Dated at Halifax, Nova Scotia this 26th day of July, 2005.

Darce Fardy, Review Officer