

**Office of the Information and Privacy Commissioner  
Province of British Columbia  
Order No. 120-1996  
August 30, 1996**

**INQUIRY RE: A request for records in the custody, or under the control, of the British Columbia Council of Human Rights**

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**1. Description of the review**

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on July 15, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review submitted to this Office on April 4, 1996. On January 25, 1996 the applicant requested from the British Columbia Council of Human Rights (the public body) records concerning a decision involving the applicant.

On February 29, 1996 the Council disclosed 257 records, amounting to 1,082 pages, to the applicant. The Council severed a small amount of personal information about third parties from four pages under section 22 of the Act because, in the opinion of the Council, disclosure of the personal information would be an unreasonable invasion of the personal privacy of the third parties.

**2. Documentation of the inquiry process**

A Notice of Inquiry was issued to the parties on June 24, 1996. The inquiry process began July 5, 1996 and concluded July 15, 1996. The applicant did not make a primary submission; this is a critical consideration to which I will return later in this order.

**3. The records in dispute**

The records in dispute consist of three pages. Page 127 is a memorandum from the Ministry of Labour, Employment Standards Branch, to the Council, dated June 24, 1993. Page 187 is a hand-written note dated "June 23." Page 189 is a computer printout dated September 3, 1992.

**4. Issue under review at the inquiry**

The issue originally under review at this inquiry was whether the records in dispute are protected from disclosure by section 22 of the Act.

## **5. Discussion**

Under section 57(2) of the Act, the applicant bears the burden of proof to establish that disclosure of the information sought would not be an unreasonable invasion of the third parties' personal privacy. The applicant was informed of this fact in a Notice of Inquiry sent to him on June 24, 1996.

The applicant's initial submission in this matter was due at my Office on July 5, 1996 and the Council's reply submission on July 12, 1996. As of July 15, 1996, I had not received any submissions from the applicant. I did forward the reply submission of the Council to him. However, since the applicant had the burden of proof and did not file a submission, I decided under section 56(4)(b) of the Act that he was not entitled to submit any material in response to the Council's representations. I informed the applicant of that fact in writing on July 10, 1996.

The applicant stated that he had not received the Notice of Inquiry or the Portfolio Officer's fact report. The Office sent these items to him by courier service on June 25 and July 3, 1996. Although no one was at home at the time of the deliveries, the courier delivery person confirmed that he left both envelopes at the doorstep of the applicant, partly under the mat. I am satisfied that reasonable efforts were made to deliver the documents to him.

The Council's submission in this inquiry was to the effect that its decision on release of the records should be upheld, because of the applicant's failure to discharge the burden of proof placed on him under the Act. (Submission of the Council, paragraph 9) In support of its position, it cited, appropriately, my Order No. 59-1995, October 25, 1995.

## **6. Order**

I find that the applicant in this case has failed to meet the burden of proof imposed by section 57(2). Under section 58(2)(c) of the Act, I therefore require the British Columbia Council of Human Rights to withhold the remaining three pages of severed records.

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David H. Flaherty  
Commissioner

August 30, 1996