

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 87-1996
February 29, 1996**

INQUIRY RE: A third party's request for a review of a decision by the Ministry of Transportation and Highways to give an applicant access to two letters that she had written to the Ministry

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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 in Victoria on February 16, 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 by a third party of two letters sent by her to the Ministry of Transportation and Highways (the Ministry). The Ministry gave section 23 notice to the third party and then decided to grant the applicant complete access to the two letters. This case appears to be a continuation of the events that led to Order No. 34-1995, February 3, 1995.

2. Documentation of the inquiry process

The applicant submitted a written request to the Ministry on July 5, 1995. The Ministry clarified the request with the applicant on August 17, 1995 and identified two letters written to the Ministry by the third party on June 27, 1995 and July 4, 1995. The Ministry wrote to the third party on September 12, 1995, giving her third party notice under section 23 of the Act, and subsequently wrote on October 5, 1995 to the applicant and the third party, under section 24 of the Act, to advise them that the Ministry had decided to give the applicant complete access to the two letters. The third party then wrote to my office on October 19, 1995 to request a review of that decision.

3. Issue under review at the inquiry and the burden of proof

The issue under review in this inquiry is the application of section 22 of the Act to the two letters written by the third party and sent by her to the Ministry. The relevant section is as follows:

22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

Section 57 of the Act establishes the burden of proof. Under section 57(3)(a), since the records contain personal information about the third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

4. The records in dispute

The two letters each contain the third party's name, address, telephone numbers as well as the name and mailing address of a District Area Manager of the Ministry, to whom the letters were addressed. One of them also refers by name to two other Ministry employees.

5. The applicant's case

This case involves a parking dispute among neighbours in Port Alberni, who were once friends. The applicant believes that obtaining access to these letters in dispute will help put an end to the third party's complaints to the Ministry. He argues that there is no personal information in either of these letters that he does not already know.

The applicant states that he wishes to obtain the records in dispute as a basis for an eventual law suit against the third party for harassment.

6. The Ministry's case

The basic position of the Ministry is that section 22(1) of the Act does not apply to the records in dispute. Although there is some personal information in them, in the form of the names of the third party to this inquiry and of three employees of the public body, plus telephone, addresses, and FAX numbers, the Ministry argues that disclosure would not be an unreasonable invasion of anyone's personal privacy. (Submission of the Ministry, p. 5)

7. Discussion

In her submission, the third party essentially contests various assertions of the applicant that have little to do with the issue of the applicant's access to the two letters. She denies any harassment of the applicant and states that her complaints to the Ministry are legitimate.

The reality is that the letters in dispute were written by the third party to an official of the Ministry to seek access to various pieces of information. They are straightforward "business" letters. There is no possible reason under section 22 of the Act why they should not be disclosed to the applicant.

8. Order

I find that disclosure of the records in dispute would not be an unreasonable invasion of personal privacy under section 22(1). I find that the Ministry of Transportation and Highways is not required to refuse access. Under section 58(2)(a) of the Act, I require the head of the Ministry of Transportation and Highways to give the applicant access to the records in dispute.

David H. Flaherty
Commissioner

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