

IN THE MATTER OF:

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

AND IN THE MATTER OF

AN ADJUDICATION UNDER SECTION 62
REQUESTED BY [G.R.] ON APRIL 22, 1996

REASONS FOR DECISION
OF THE
HONOURABLE MR. JUSTICE BAUMAN

[1] [Mr. R.] has applied pursuant to s. 62 of the Freedom of Information and Protection of Privacy Act (the "Act") for a review of the decisions made by the Office of the Information and Privacy Commissioner (the "Commissioner") in request numbers 3538 end 3539.

[2] In 3538 [Mr. R.] sought:

"...Copies of all actions initiated by the Office of the Information and Privacy Commissioner relative to a written complaint by [Mr. R.] that Dennis Lieutard did not respond to Bill Trott's October order to provide complete information in files, contrary to Trott's order..."

[3] In 3539 he sought:

"...copies of all mediation efforts prior to the s.43 application of the Ministry of Employment and Investment. "

[g] By letter dated August 16, 1996 the Commissioner refused the request, finding that the documents were operational records of the Commissioner's office and hence, were beyond the scope of the *Act* pursuant to s. 3(1)(c) thereof.

[5] In his request for review dated August 22, 1996, [Mr. R.] states:

"These records are central to a s. 43 FIPPA application by the MOE&I and prejudices my ability to respond fully and thoroughly to the s. 43 application"

[6] In fact, the Commissioner rendered his decision on the s. 43 application on August 23, 1996. By that decision the Commissioner made the following order:

"Therefore I authorize the Ministry to disregard the following:

1. All outstanding requests for records by *[Mr. R.]*;
2. All future requests for records which relate to mineral claims of *[Mr. R.]*, the dispute with the Drinnans, and the allegations of wrongdoing by the Ministry;
3. All requests of any kind for a period of one year by *[Mr. R.]*

[7] Arguably, this review is now moot as the ground upon which it is advanced – the need for full preparation for the s. 43 hearing – has been displaced by a final order in that particular proceeding.

[8] Nevertheless, in deference to the submissions filed by the Commissioner, I will consider the request for review.

[9] I should note that I invited the parties to make submissions in writing on the merits of the review.

(10) The Commissioner, through counsel, filed a comprehensive brief on January 28, 1997.

[11] *[Mr. R.]* chose not to do so after being invited again to make submissions by my memorandum of May 5, 1997.

[12] I have reviewed the documents and the files of the Commissioner.

[13] In my opinion the Commissioner's refusal of the request is properly grounded on s. 3(1)(c) of the Act.

[14] The decision of Madam Justice Levine in *[Mr. R.] v. Information and Privacy Commissioner* (June 30, 1997) [*Adjudication order no. 3*] cannot be distinguished from the facts on this review. There she upheld the Commissioner's application of s. 3(1)(c). The decision of Esson (then C.J.) in *[Mr. H.] v. Information and Privacy Commissioner* (September 6, 1996) [*Adjudication order no. 1*] is to the same effect.

[15] Pursuant to ss. 65(2) and 58(1) of the Act, I dispose of this adjudication by confirming the Commissioner's decisions to refuse access to the records requested by *[Mr. R.]*

Bauman, J.