



F07-15-MS Water District's Aquifer Study Not Exempt as Advice to a Public Body

A resident of a water district was concerned that new housing developments risked depleting the aquifer that supplied the community to the point that future water supplies might be jeopardized. Wanting to obtain more information to determine whether his concerns were justified, he asked the district for a copy of a hydrogeological study of the aquifer it had commissioned some time previously. When the district responded that it had decided to withhold the study under sections 13 and 17 of the *Freedom of Information and Protection of Privacy Act*, the resident asked us to intervene, as he felt that the contents of the study were a matter of public interest and the public had a right to know what it said.

On reviewing a copy of the study provided to us by the district, we found it largely consisted of a detailed analysis of the structure of the aquifer. In addition, the study identified potential new well sites for accessing the underground water supplies.

Under section 13 of FIPPA, the head of a public body may refuse to disclose to an applicant information that would reveal advice or recommendations developed by or for a public body. However, section 13 also provides that a public body must not refuse to disclose information such as factual material and feasibility or technical studies relating to projects of a public body. Under section 17, a public body may refuse to release to an applicant information the disclosure of which could reasonably be expected to harm the financial or economic interests of a public body.

The district accepted our view that, insofar as the study was both technical and in large part factual, section 13 required the disclosure of the study, subject to any severing that might be reasonable under section 17. The district's primary concern, which lay behind its reluctance to release the study, was that publicly revealing the location of potential well sites might benefit competitors seeking access to the same water resources, to the detriment of the district. The risk of harm being both real and substantial, we concluded that the district's reliance on section 17 regarding this particular information was reasonable.

When we conveyed this conclusion to the resident, he told us he had no need to know the locations of potential well sites, so the district severed this information and gave him the balance of the study.