

F10-08-MS Public Servants Exchange Advice on Dealing with a Difficult Citizen

A man engaged in litigation with a health authority over a dispute about water samples made a freedom of information request for records related to the dispute.

Mediation by our office secured some records that had been initially withheld, but one record in particular became a difficult point of contention.

An employee of the health authority had emailed colleagues asking for advice on how best to respond to a situation involving the applicant. The health authority withheld the exchange of emails under s. 13 of the *Freedom of Information and Protection of Privacy Act* (FIPPA), reasoning that disclosing these records would reveal “advice or recommendations developed by or for a public body”.

In Order 00-17, Commissioner Loukidelis found that s. 13(1) of FIPPA properly applied to the following scenario:

The records in dispute here demonstrate the internal thinking of the public body on how to manage a series of specific issues.... In some cases, the information in the severed records, if released, would reveal the advice which led to a “course of action” or strategy undertaken by the public body. In addition, if the “course of action” or strategy were to be revealed, this would allow a knowledgeable reader to accurately infer the advice leading up to the action.

In Order F08-06, the adjudicator found that s. 13(1) clearly applied to a situation where advice was provided by email as to how to respond to a letter from an applicant.

Taken together, Orders 00-17 and F08-06 made clear that the health authority was justified in severing a portion of the email response to the request for advice. Nevertheless, the applicant was pleased that the mediation process had at least produced some further disclosures.