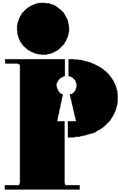

Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER M-491

Appeal M-9400643

Board of Education for the City of Hamilton

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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appellant has been involved in grievance proceedings with the Board of Education for the City of Hamilton (the Board). She has requested the following information from the Board:

(1) a copy of her complete personnel file maintained by the Board's Human Resources Department;

(2) a copy of her complete file maintained by the Board's Employee Relations Department; and

(3) a copy of her complete file with the Board's Legal Services Department or any law office retained by the Board, including all records in which her name appears.

The Board granted full access to the personnel file referred to in part 1 of the request. In response to part 2, the Board provided full access to the Step 1 and 2 grievance notes maintained by its Employee Relations Department, and partial access to an internal workplace report relating to the grievance. Also with respect to part 2, the Board identified, and denied access to, correspondence with its lawyers. With respect to part 3, the Board's response indicated that no responsive records existed.

Access to the undisclosed information was denied pursuant to the following exemptions:

- solicitor-client privilege - section 12
- evaluative or opinion material - section 38(c).

The appellant filed an appeal with the Commissioner's office, objecting to the denial of access and also indicating that additional responsive records ought to exist. Accordingly, this order will deal with the issues of access to records and the reasonableness of the Board's search for responsive records.

A Notice of Inquiry was sent to the Board and the appellant. Representations were received from both parties.

The records which were at issue at the beginning of my inquiry into this appeal were as follows (adopting the numbering system assigned in the Notice of Inquiry):

Record 1: Handwritten notes, April 19, 1994
Record 2: Office Memo, April 16, 1994
Record 3: Letter from Board solicitors to Board, January 31, 1994
Record 4: Letter from Board solicitors to Board, February 1, 1994
Record 5: Letter from Board solicitors to Board, February 21, 1994
Record 6: Letter from Board to its solicitors, March 1, 1994.

In its representations, the Board has indicated that it no longer seeks to exempt Records 3 and 5. In addition, the Board has not made any representations to support the discretionary exemptions it has claimed with respect to Records 1 and 6. I have reviewed Records 1, 3, 5 and 6 and determined that no

mandatory exemptions apply. Accordingly, I will order the Board to disclose these records and will not consider them further in this order.

Therefore, the records which remain at issue are Records 2 and 4.

PRELIMINARY ISSUES:

LATE FILING OF APPEAL

Section 39(2) of the Act states as follows:

> An appeal under subsection (1) shall be made within thirty days after the notice was given of the decision appealed from by filing with the Commissioner written notice of appeal.

In her letter of appeal, the appellant states that she received the Board's response to her request, dated September 23, 1994, on September 27, **1993**. Since it is clearly impossible that the appellant received a letter dated September 23, 1994 on September 27, 1993, I will proceed on the basis that the appellant in fact received the Board's response on September 27, 1994. Thus her appeal, which was dated November 4, 1994, was filed outside the 30 day period prescribed by section 39(2).

The Board argues that the appeal is untimely and therefore ought not to proceed.

In Order P-155 former Commissioner Sidney B. Linden expressed the principle that the Freedom of Information and Protection of Privacy Act (which is similar to the Act, but applies to provincial, rather than municipal, institutions) should be interpreted liberally in favour of access to the process unless someone can show prejudice resulting from the delay. In that order, the former Commissioner held that where a delay in filing an appeal is substantial **or** the institution or any other affected person can show some prejudice resulting from delay, subsection 50(2) of the provincial Act (the equivalent of section 39(2) of the Act) is to be interpreted more strictly.

In this appeal, in order to comply with section 39(2) the appeal should have been filed by October 27, 1994. Instead, it was dated November 4, 1994. In my view, a delay of eight days does not qualify as "substantial" in the sense contemplated in Order P-155. Moreover, no evidence of prejudice has been provided. Accordingly, I am prepared to proceed with this appeal.

LATE RAISING OF EXEMPTIONS

The representations submitted by the Board also seek to claim several additional exemptions with respect to Record 2. These exemptions are as follows:

- third party information - section 10(1)
- advice or recommendations - section 7(1).

The exemption in section 10(1) is mandatory, and for that reason I will consider its possible application. Section 7(1), however, is discretionary.

As part of its efforts to expedite the processing of access appeals and in order to sensitize institutions about the prejudice which accrues to appellants when discretionary exemptions are not applied promptly, the Commissioner's office issued an IPC Practices publication in January 1993, entitled "Raising Discretionary Exemptions During an Appeal". This document, which was sent to all provincial and municipal institutions, indicates that:

> The IPC has found that institutions frequently raise new discretionary exemptions after the appeal process is underway. When this happens, the appellant must be informed and given the opportunity to comment on the applicability of the new exemption claims. This additional step prolongs the appeal process, particularly when new discretionary exemptions are raised at the later stages of an appeal.
>
> Effective March 1, 1993, the IPC will permit institutions to raise new discretionary exemptions only within a limited time frame - up to 35 days after the appeal has been opened. The initial notice sent out by the IPC will specify the deadline for claiming any new discretionary exemptions.

The objective of this policy is to provide institutions with a window of opportunity to raise new discretionary exemptions but not at a stage in the appeal where the integrity of the process is compromised or the interests of the appellant prejudiced.

In accordance with this policy, the Confirmation of Appeal sent to the Board when this appeal was filed, indicated that the institution had 35 days from the date of the Notice (that is, until December 15, 1994) to claim any additional discretionary exemptions. The Board's representations, which first raised the exemption in section 7(1), were not sent to this office until February 15, 1995. In the absence of any explanation for this delay in claiming this exemption, I am not prepared to consider it.

The Board's representations include an affidavit sworn by the author of Record 2, who submits that its disclosure would be an unjustified invasion of her personal privacy. Because of the privacy issue, I will consider whether this submission has merit. The exemptions which relate to invasion of privacy are found in sections 14(1) and 38(b) of the Act.

In summary, in addition to the exemptions originally claimed, I will consider the possible application of sections 10(1), 14(1) and 38(b) to Record 2.

Before leaving this matter, however, I must comment further on the Board's attempt to claim additional exemptions in its representations. Because of the time sensitivity of many types of information, the Commissioner's office has adopted policies such as the one referred to above to ensure the timely processing of appeals. Generally speaking, it is prejudicial to the access scheme in the Act to claim new exemptions at the representations stage, because this can delay the appeals process and any disclosure which may ultimately be ordered. Moreover, the Act clearly contemplates that decisions relating to exemptions will be made **before** the response to an access request is sent to the requester, in accordance with sections 19 and 22.

In this appeal, the Board's representations expressly attempt to raise the exemptions provided by sections 7(1) and 10(1), and the Board's reference to a possible unjustified invasion of personal privacy implicitly raises the exemptions found in sections 14(1) and 38(b). For the reasons just set out, I have agreed to consider several of these exemptions. In many cases, this would have required a supplementary notice to the appellant to permit her to comment on these new exemptions, which would necessarily delay completion of the appeal.

In this case, because of the determination I will make in this order relating to sections 10(1), 14(1) and 38(b), this additional notification was not required and the appeals process was not delayed. In future, however, I would urge the Board to undertake a thorough assessment of the records, and make a full determination regarding exemptions which may apply, at the **request** stage.

SUMMARY OF RECORDS AND EXEMPTIONS AT ISSUE

The exemptions to be considered in this order are those provided by sections 10(1), 12, 14(1), 38(b) and 38(c).

Because these records appear to contain the appellant's own personal information, I will also consider the possible application of section 38(a) of the Act.

Based upon the Board's claims and my decisions with respect to consideration of additional exemptions, the records at issue and the exemptions to be considered with respect to each of them are as follows:

Record 2: Sections 10(1) and 38(a), sections 14(1) and 38(b), and section 38(c);
Record 4: Sections 12 and 38(a).

DISCUSSION:

PERSONAL INFORMATION/INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Both of the records which remain at issue relate to the appellant's grievance, and I find that both of them contain her personal information.

It has been previously established that access requests for records which contain the requester's own personal information must be considered under Part II of the Act, which sets out procedures and exemptions to be followed in such cases (Order M-352). In particular, section 38 of the Act sets out the exemptions which may apply to records containing the requester's own personal information.

As previously noted, the author of Record 2 (in an affidavit which forms part of the Board's representations) claims that its disclosure would be an unjustified invasion of her personal privacy. As I noted in my discussion of this issue under "Late Raising of Exemptions", above, the exemptions relating to invasions of privacy are found in sections 14(1)(a) and 38(b) of the Act.

I have previously found that Record 2 contains the personal information of the appellant. In these circumstances, Order M-352 indicates that the exemption to consider with respect to a possible unjustified invasion of personal privacy is section 38(b), rather than section 14(1). Accordingly, section 14(1) does not apply in this case.

Under section 38(b), where a record contains the personal information of both the appellant and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information.

Disclosure of Record 2 could only be an unjustified invasion of the author's personal privacy if it contained her personal information. This record was prepared in its author's professional capacity. Many previous orders (see, for example, Order M-25) have held that a record prepared in an individual's professional capacity, and which does not relate to that individual personally, does not constitute that individual's personal information. Since no part of Record 2 relates to its author in any personal way, I find that it does

not contain the author's personal information, and in these circumstances, the exemption in section 38(b) cannot apply.

DISCRETION TO DENY REQUESTER'S OWN INFORMATION

Under section 38(a), the institution has the discretion to deny access to an individual's own personal information in instances where certain exemptions set out in Part I of the Act would otherwise apply to that information. The exemptions in sections 10 and 12 are both referred to in section 38(a). As a preliminary step in determining whether the exemption in section 38(a) applies, I will consider whether Record 2 qualifies for exemption under section 10, and whether Record 4 qualifies for exemption under section 12.

THIRD PARTY INFORMATION

The Board claims that Record 2 qualifies for exemption under section 10(1) of the Act.

Section 10(1)(b)

The Board's representations assert that disclosure of Record 2 could result in this type of information not being supplied in the future, in apparent reference to section 10(1)(b).

For a record to qualify for exemption under section 10(1)(b), each part of the following three-part test must be satisfied:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**

2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**

3. the prospect of disclosure of the record must give rise to a reasonable expectation that the harm specified in section 10(1)(b) will occur.

With respect to part 1 of the test, I find that Record 2 does not contain any trade secret or scientific, technical, commercial or financial information. In Order P-653, Inquiry Officer Holly Big Canoe made the following comment about the meaning of "labour relations information" in the context of section 17(1) of the provincial Freedom of Information and Protection of Privacy Act, which is the equivalent of section 10(1) of the Act:

> In my view, the term "labour relations information" refers to information concerning the **collective** relationship between an employer and its employees.

I agree with this view, and adopt it for the purposes of this appeal. Record 2 contains no information about the collective relationship between an employer and its employees and accordingly, I find that disclosure of this record would not reveal any of the types of information referred to in the preamble to section 10(1). For that reason, part 1 of the test has not been met and the exemption cannot apply.

There are additional reasons why this record does not qualify for exemption under this section. Turning to the second part of the test, it is my view that the information which would be revealed by disclosure of the record must have been "supplied" by an external source. As previously noted, this record was written by a Board employee. It refers to "concerns" of certain parties external to the Board, but does not indicate what these concerns were. In my view, its disclosure would not reveal information which was "supplied" to the Board by an external source, and section 10(1)(b) does not apply.

Moreover, with respect to the third part of the test, section 10(1)(b) of the Act requires the Board to establish that disclosure could reasonably be expected to "result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied". The Board's representations make no reference to the public interest. Also, the author of this record is a Board employee, and the record was prepared in the course of her employment. In my view, the assertion that she would cease providing this type of information, which her employment duties require her to provide, has no reasonable basis. Accordingly, part 3 of the test has also not been met.

As noted above, each part of the test must be met in order to meet the requirements of section 10(1)(b). Therefore, failure to meet **any one** part of the test means that the exemption does not apply. Since Record 2 fails to meet any part of the test, it cannot qualify for exemption under section 10(1)(b).

Section 10(1)(d)

The Board's representations with respect to Record 2 also refer to section 10(1)(d). In this regard, the Board submits that "the record reveals labour relations information supplied in confidence".

Previous orders have established a test setting out the requirements to be met in order for a record to qualify for exemption under section 10(1)(d). The first two parts of this test are identical to parts 1 and 2 of the test set out above in my discussion of section 10(1)(b).

The third part of the test is somewhat different under section 10(1)(d), requiring the Board to establish that disclosure of the record could reasonably be expected to:

(a) reveal information of the type set out in section 10(1) which was supplied to a conciliation officer, a mediator, a labour relations officer, or another person appointed to resolve a labour relations dispute;

OR

(b) reveal the report of a conciliation officer, a mediator, a labour relations officer, or another person appointed to resolve a labour relations dispute.

As with section 10(1)(b), all three parts of this test must be met in order to qualify for exemption under section 10(1)(d).

As noted in my discussion of section 10(1)(b), above, the information in Record 2 does not come within any of the categories described in section 10(1). Accordingly, Record 2 does not meet part 1 of the test for exemption under section 10(1)(d).

My findings with respect to section 10(1)(b) also indicated that the information in Record 2 was not "supplied" to the Board within the meaning of section 10(1), and for this reason, part 2 of the test for exemption under section 10(1)(d) has also not been met.

Moreover, there is no evidence to indicate that this record was supplied to a conciliation officer, a mediator, a labour relations officer, or other person appointed to resolve a labour relations dispute, and it is apparent that the record does not reveal the report of such a person. Accordingly, part 3 of the test for exemption under section 10(1)(d) has also not been met.

As noted above, each part of the test must be met in order to meet the requirements of section 10(1)(d). Therefore, failure to meet **any one** part of the test means that the exemption does not apply. Since Record 2 fails to meet any part of the test, it cannot qualify for exemption under section 10(1)(d).

Because Record 2 does not qualify for exemption under section 10(1), it is not exempt under section 38(a).

SOLICITOR-CLIENT PRIVILEGE

The Board claims that Record 4 qualifies for exemption under section 12.

This exemption consists of two branches, which provide an institution with the discretion to refuse to disclose:

1. a record that is subject to the common law solicitor-client privilege (Branch 1); and

2. a record which was prepared by or for counsel employed or retained by an institution for use in giving legal advice or in contemplation of or for use in litigation (Branch 2).

In order for a record to be subject to the common law solicitor-client privilege (Branch 1), the institution must provide evidence that the record satisfies either of the following tests:

1. (a) there is a written or oral communication, **and**
   (b) the communication must be of a confidential nature, **and**
   (c) the communication must be between a client (or his agent) and a legal advisor, **and**
   (d) the communication must be directly related to seeking, formulating or giving legal advice;

   OR

2. the record was created or obtained especially for the lawyer's brief for existing or contemplated litigation.

I find that Record 4 qualifies for exemption under the first part of Branch 1 of this exemption, since its disclosure would reveal confidential communications between solicitor and client directly related to seeking, formulating or giving legal advice (Order 49). Accordingly, the exemption in section 38(a) applies to Record 4.

EVALUATIVE OR OPINION MATERIAL

The Board claims that this exemption, provided by section 38(c) of the Act, applies to Record 2.

Section 38(c) states as follows:

> A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by an institution if the disclosure would reveal the identity of a source who furnished information to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;

In Order M-132, Assistant Commissioner Irwin Glasberg established what was, in effect, a four-part test for a record to qualify for exemption under section 38(c) of the Act. For the exemption to be successfully claimed, an institution and/or affected person must establish that:

1. The personal information is evaluative or opinion material;

2. The personal information was compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits;

3. The information was supplied to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;

4. The disclosure of the record would reveal the identity of the source of the information.

Each element of the four-part test must be satisfied in order for the exemption to apply. The failure to meet any part of the test means that section 38(c) will not be available to exempt the personal information contained in the record from disclosure.

The Board's representations respecting this exemption, given in the form of an affidavit signed by the author of this record, state that:

> The internal workplace report sets out my opinion regarding the grievance and contains certain recommendations. The memo was drafted for the purpose of determining suitability of [the appellant] for employment. When furnishing such information, my views were expressed in confidence and in the belief that such views or opinions would not be disclosed.

Turning to the part 3 of the test, it is significant that the Board's representations do not assert that there was any expectation that the **identity of the source** would be kept confidential, and no other evidence has been produced to indicate that this expectation existed, or had any reasonable basis. In and of itself, this would support a finding that part 3 of the test has not been met.

It is also significant that the author of Record 2 is a senior Board employee in the human resources area, and her employment responsibilities could be expected to require preparation of documents such as this. In my view, the author's position with the Board indicates that it would not be reasonable to assume that her identity as a source, with respect to this particular record, would be held in confidence.

I find that part 3 of the test has not been met and this exemption does not apply. As no other discretionary exemptions are under consideration with regard to Record 2, and no mandatory exemption applies, it should be disclosed.

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he or she is seeking and the Board indicates that additional records do not exist, it is my responsibility to ensure that the Board has made a reasonable search to identify responsive records. While the Act does not require that the Board prove to the degree of absolute certainty that such records do not exist, the search which the Board undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

With respect to part 1 of the request (as summarized at the beginning of this order), which pertains to the appellant's personnel file, the Board has supplied an affidavit executed by its Records Analyst. The affidavit indicated that this individual contacted the Teaching Staffing Co-ordinator (the individual who maintains personnel files of this type) and obtained the appellant's complete personnel file, which was disclosed in full.

As outlined at the beginning of this order, parts 2 and 3 of the request pertain to the appellant's files maintained by the Board's Employee Relations Department, Legal Services Department, and any outside law firm retained by the Board. With respect to its search for records responsive to these parts of the request, the Board supplied the affidavit of its Manager of Employee Relations, who is also the Freedom of Information and Privacy Co-ordinator (the Co-ordinator).

The Co-ordinator's affidavit indicates that she personally conducted the search within the Board's Employee Relations Department (referred to in part 2 of the request), which she would be familiar with by virtue of her position as manager of that department. In this regard, she also consulted two Employee Relations officers concerning the existence of any responsive records. As a result of these searches, grievance notes for Steps 1 and 2 were located and disclosed, and Records 2, 3, 4 and 5 were also located. After the appeal was filed, the Co-ordinator conducted a further search within the Employee Relations Department, as a result of which one further record was located and disclosed.

With respect to part 3 of the request, the Co-ordinator's affidavit indicates that she met with the Board's solicitors to "respond to [the appellant]'s request for copies of legal documents which are in the custody or control of the Board". It is not clear whether this meeting was with in-house counsel or external solicitors. In any event, there is no indication that any search for records responsive to part 3 of the request was undertaken, either in-house or at the offices of any external solicitors retained by the Board.

The Board's decision letter states that "[l]egal advice regarding your grievance process was obtained verbally, and no documents were created". However, this statement is directly contradicted by the existence of Record 4 (as well as Records 3 and 5, which the Board has agreed to disclose). Moreover,

not all records created in the course of a solicitor-client relationship contain legal advice. I also note that, although this letter was made an exhibit to one of the affidavits submitted by the Board, the statement just quoted is not mentioned anywhere in the Board's representations. For all these reasons, I do not accept the assertion that "no documents were created", and in my view, a search ought to have been conducted with respect to part 3 of the request.

Many of the comments in the appellant's representations refer to classes of records other than those at issue in this appeal, or to allegations which are outside the mandate of this office to investigate.

Based upon the representations and evidence provided, I am satisfied that the Board's searches for records with respect to parts 1 and 2 of the request were reasonable in the circumstances, since actual searches were conducted by staff who would be knowledgeable about the records they were seeking to find.

However, since I have been provided with no evidence of a search relating to part 3 of the request, and the Board's representations provide no grounds to justify a conclusion that a search need not have been undertaken, I am not satisfied that reasonable efforts were made in this regard. Accordingly, I will order the Board to do a further search for records with respect to part 3 of the request.

I note that the request made explicit reference to records in the custody of any law firm retained by the Board, as well as its Legal Services Department. In this regard, it is significant that some types of records in the custody of a law firm or independent solicitor retained by the Board could be under the **control** of the Board, and for this reason, they could be subject to the access scheme in the Act by virtue of sections 17(1) and 36(1).

To assist the Board in determining which responsive records in the custody of any law firm or independent solicitor retained by the Board would be under its control for the purposes of the Act, I will set out the following extract from Order M-371, in which I dealt with this subject.

> In my view, records in the custody of a solicitor which are the property of a client may be said to be under the client's control for the purposes of the Act (Order M-315). Several legal authorities are relevant to the issue of ownership of client records in the custody of solicitors.
>
> For instance, section 6(6) of the Solicitors' Act, R.S.O. 1990, c. S15, indicates that, in proceedings relating to solicitors' accounts, documents which belong to the client must be dealt with as the client instructs, upon payment of all outstanding fees. That section states as follows:
>
>> Upon payment by the client or other person of what, if anything, appears to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, **shall** deliver to the client or other person, or as

> the client or other person directs, all deeds, books, papers and writings in the solicitor's possession, custody or power **belonging** to the client. (emphasis added)

In addition, this issue is addressed in a more general way in Aggio v. Rosenberg et al. (1981) C.P.C. 7, where the court quotes with approval from a text entitled The Law Relating to Solicitors (6th edition) by Corderley.

The Court reproduced the following excerpts from that textbook relating to ownership of solicitors' records:

> Documents in existence before the retainer commences and sent to the solicitor by the client or by a third party during the currency of the retainer present no difficulty since their ownership must be readily apparent. The solicitor holds them as agent for and on behalf of the client or third party, and on the termination of the retainer must dispose of them (subject to any lien he may have for unpaid costs ...) as the client or third party may direct.
>
> Documents which only come into existence during the currency of the retainer and for the purpose of business transacted by the solicitor pursuant to the retainer, fall into four broad categories:
>
> (i) Documents prepared by the solicitor for the benefit of the client and which may be said to have been paid for [by] the client, **belong to the client**.
>
> (ii) Documents prepared by the solicitor for his own benefit or protection, the preparation of which is not regarded as an item chargeable against the client, belong to the solicitor.
>
> (iii) Documents sent by the client to the solicitor during the course of the retainer, the property in which was intended at the date of despatch to pass from the client to the solicitor, e.g., letters, belong to the solicitor.
>
> (iv) Documents prepared by a third party during the course of the retainer and sent to the solicitor (other than at the solicitor's expense), e.g., letters, **belong to the client.** (emphases added).

I direct the Board to bear these considerations in mind in assessing whether any responsive records found in the custody of external solicitors retained by the Board are under the Board's control.

ORDER:

1. I uphold the Board's decision to deny access to Record 4.

2. I order the Board to disclose Records 1, 2, 3, 5 and 6 to the appellant within fifteen (15) days after the date of this order.

3. In order to verify compliance with Provision 2, I reserve the right to require the Board to provide me with a copy of the records disclosed to the appellant in accordance with that provision.

4. I order the Board to arrange for a review of any records responsive to part 3 of the request (as summarized at the beginning of this order) in the custody of any law firm or independent solicitor it has retained with respect to its relations with the appellant in order to determine which of these records are under its control, to communicate the results of this review to the appellant in writing, and to provide an access decision to the appellant with respect to any responsive records under its control, in the form contemplated by sections 19, 22 and 23 of the Act, all within thirty (30) days after the date of this order, without recourse to a time extension.

5. Should the Board have a Legal Services Department or any in-house counsel, I also order the Board to search the records of that department and/or counsel to determine whether any records responsive to part 3 of the request exist, to communicate the results of this search to the appellant in writing, and to provide an access decision to the appellant with respect to any responsive records located as a result of this search, in the form contemplated by sections 19, 22 and 23 of the Act, all within thirty (30) days after the date of this order, without recourse to a time extension.

6. In order to verify compliance with Provisions 4 and 5 of this order, I order the Board to provide me with a copy of the correspondence referred to in Provisions 4 and 5 within thirty-five (35) days after the date of this order. This should be sent to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: March 17, 1995
John Higgins
Inquiry Officer