



**Mr. Peter O'Brien, Chair
FOIPOP Review Committee
c/o NS Department of Justice
5151 Terminal Road, PO Box 7
Halifax, Nova Scotia, B3J 2L6**

March 19, 2003

Dear Mr. O'Brien and members of the FOIPOP Review Committee:

Thank you for the opportunity to participate in your review of the Nova Scotia Freedom of Information and Protection of Privacy Act.

Over the years the Ecology Action Centre has made responsible use of the provisions of the Act which provide access to important public information regarding environmental issues and government accountability. We believe unobstructed access to government information is a vital component of a free and democratic society and that it promotes good governance and transparency within our public institutions.

In recent years the provincial government has dramatically increased the fees associated with Freedom of Information applications and processing of applications. As a member-based, not-for-profit organization we find the new fees are prohibitively high and are severely limiting. Since the new fees were introduced we have had to cut back on Freedom of Information applications dramatically. We believe that this is wrong and contrary to the spirit and intent of the Act.

We request that the new fees be rolled back and the old fees restored.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark Butler", with a long horizontal line extending to the right from the end of the signature.

Mark Butler
Internal Director
Ecology Action Centre

Raymond Plourde
Wilderness Coordinator
Ecology Action Centre

Good afternoon Mr. O'Brien and members of the Advisory Committee.

My name is Raymond Plourde and I'm the Wilderness Coordinator for the Ecology Action Centre. The Ecology Action Centre is Nova Scotia's oldest and one of the most respected Environmental NGOs. Based in Halifax, the EAC has represented the public interest on environmental issues in Nova Scotia for over 30 years.

Part of the role of the EAC, is to act as a public watchdog of government policy and practices with respect to environmental responsibilities and management decisions. In order to do that effectively, the EAC and many other organizations in Nova Scotia rely on the principles of government transparency and accountability. It is the position of EAC that governments hold an important public trust and that decisions made in the name of the people they represent must be able to bear up to public disclosure and review. We believe that free and open access to government information is a vital component of democracy and promotes good governance of our public institutions. Attempts to limit freedom of information, by any means, are contrary to the principles of open democracy and in opposition to the concept of the public good.

I would like touch on a couple of specifics and to expand upon the letter to sent to this Committee by our Internal Director, Mr. Mark Butler back in March.

Restrictively high fees

Over the years the Ecology Action Centre has made responsible use of the provisions of the FOIPOP Act to access important public information regarding various environmental issues in Nova Scotia. Recently the government has dramatically increased fees associated with Freedom of Information applications and processing. Nova Scotia now has the highest fees of any jurisdiction in Canada. As a local, member-based, not-for-profit organization we find these new fees to be prohibitively high and severely limiting to us. Since the new fees were introduced we have had to cut back on Freedom of Information applications dramatically.

As an example the Ecology Action Centre, through its Wilderness Committee made eight freedom of information applications between 1999 and 2001. We have only made two since the new fees were introduced and that was in May 2002 just after they were introduced. Since then we have done none. One of the main reasons for the drop was the costs associated with making applications and appeals. Even more significant was the increase in fees for processing applications and the elimination of expense waivers for the first two hours of staff time used to locate and copy documents. Although we are not opposed to some reasonable cost-recovery fees where large requests use up a lot of staff time, we feel the meter should not be running from minute one. The sum total of the fee changes can now quickly mount up and become too high for the meager budgets of small NGOs. The effect is a de-facto blocking of freedom of information.

We believe the new, higher fees were introduced, at least in part, as a barrier for groups like ours from accessing government information. We believe that this is wrong and contrary to the spirit of the Act. We request that this committee recommend the immediate roll back of these fees on the basis that they are prohibitively high and that they unduly restrict freedom of information.

Routine Disclosure

The Ecology Action Centre also believes that a lot of government information should not have to ferreted out using the Act in the first place. It is often unnecessary and just plain wasteful in many cases. Routine disclosure of information that form part of the official public record would streamline the process and reduce the need for costly and time-consuming FOI application, appeals, etc.

As an example the Ecology Action Centre has asked that routinely filed documents like forestry harvesting plans and license agreements for Crown Land be made available for public review. The land in question is, after all, publicly owned so it would seem to be a fairly straightforward proposition that the public know what's going on. But no, there is no central registry for this sort of information and fees associated with getting even small pieces of it can amount to several hundred dollars. Even other government departments have had difficulty obtaining this kind of information. For example, we are aware that the Protected Areas Branch of the Department of Environment and Labour (DEL) was refused access to road building and cutting plans by DNR for Crown lands in the Ship Harbour Long Lake where DEL clearly had a legitimate program interest.

Similarly, EAC made a FOI request to see the minutes of Crown Land planning meetings by the Department of Natural Resource's Integrate Resource Management (IRM) planning team. IRM involved extensive public consultations so we felt it only appropriate that the final planning process be transparent to the public. We noted that in other provinces (Ontario & BC) there were public seats on these types of planning committees, with minutes of meetings posted on the web for all to see. In Nova Scotia the experience is different, with closed-door decision making and little or no public disclosure. We were initially refused access to the minutes of the meetings, had to appeal to Mr. Fardy's FOI office and were eventually given access because indeed, it was deemed clearly appropriate. Among other things Mr. Fardy's report recommended that "the department reconsider its policy and subject the minutes to routine public disclosure".

Transparency

The problem in Nova Scotia is that information like this, which should be part of the public record, is treated as "secret" – something to be kept from the public. Enter the expensive and time-consuming effort of FOI applications and appeals. Cost recovery arguments given by the government to justify higher fees – that they would help pay for the system - just don't bear up. Fees collected are just a drop in the bucket compared with the overall administrative costs required to support the Act. What it really amounts to is a deliberate attempt to restrict government transparency and the flow of public information.

Although Freedom of information laws are undoubtedly irksome to some politicians and bureaucrats who, by nature, don't like being accountable, they are a critically important part of the checks and balances of a free and democratic society.

Conclusion

We therefore respectfully ask this committee to recommend the immediate roll-back of the new fees and for greater use of routine disclosure as well as appointing public seats for important public processes like IRM planning and final decision making bodies. In short, to loosen up the information bottleneck and to accept that transparency and accountability come with the jobs of public office and civil service.

Thank you