

File: 02 10 37
Date: 20030812

Commissioner: M^e Christiane Constant

X

Applicant

vs.

Ministère de la Justice

Public body

DECISION

THE APPLICATION FOR REVIEW IN TERMS OF ACCESS

[1] On May 22, 2002, R.A.B. requests from the Ministère de la Justice (the « Ministère ») access to twenty-one type of informations concerning the Applicant, relating to the role of judges in alleged proceedings which would concern possible interception of communications made by the Applicant; an authorization is attached to the information request.

[2] On June 4, 2002, Mr. Pierre Legendre, who is Access Information Officer for the Ministère, indicates to R.A.B. he cannot proceed with the request, since the consent he provided to the Ministère, on behalf of the Applicant, is not valid for the reasons mentioned in his letter. Mr. Legendre also indicates that the consent must contained the followings :

- the date of the consent;
- the full name of the person concerned;
- the date of birth;

- the address;
- the telephone number;
- the signature of the person concerned.

[3] On June 11, 2002, R.A.B. provides to the Ministère some clarifications regarding his request for access.

[4] On July 11, 2002, R.A.B. asks the Commission d'accès à l'information (the « Commission ») to review the Ministère's decision.

THE DECISION

[5] On September 23, 2002, M^e Jennifer Stoddart, President of the Commission, sends a letter to Mr. Pierre Legendre, asking for the reasons motivating the Ministère's position before October 15, 2002.

[6] On October 15, 2002, Mr. Legendre refers M^e Stoddart to the letter that he sent on June 4, 2002 to R.A.B, which contains the reasons the Ministère did not proceed with the request.

[7] On November 8, 2002, M^e Stoddart asks R.A.B., who wants to obtain informations on behalf of the Applicant, to submit to the Commission his comments regarding the Ministère's position no later November 25, 2002. Furthermore, M^e Stoddart refers R.A.B. to the comments made by Mr. Legendre :

- Raising the questions about the validity of the Applicant's consent given to him and therefore it cannot proceed with this request;
- If the documents existed, they would be in court files. Since the *Act respecting Access to documents held by public bodies and the Protection of personal information*¹ (the « Act ») does not apply to court files, R.A.B would have to apply to the registrar of the files of Quebec court in any of the judicial districts where the cases may have been heard;
- In requests for access made by the Applicant in 1999 and 2001, the Ministère stated at that time it did not have any documents concerning her. Both requests were subject to Application for review before the Commission in the files number 01 03 49 and 99 22 73. Both cases were closed since R.A.B. stated, in letter dated August 8, 2002, that he wished them to be discontinued.

¹ R.S.Q., c. A-2.1.

- In the last several years, R.A.B. has made many requests for access on his name and on behalf of other persons.

[8] However, regarding the present case, an extension of the delay to respond was requested by R.A.B.; it was granted by the Commission.

[9] On March 15, 2003, R.A.B. mainly maintains that he provided sufficient informations in order for the Ministère to locate the informations he requested. R.A.B. also maintains that the consent signed by the Applicant is valid, because the Applicant understands it when she gave it to R.A.B.

[10] However, according to the writting evidence and having examined the file, the Commission takes into consideration the consent provided by R.A.B. to the Ministère, on behalf of the Applicant whom he said he represents. This consent contains mainly a paragraph which indicates that «This authorization will last for One hundred years as of the date of signing of this document by Me Even after my death ».

[11] Taking note of the Ministère's position and R.A.B.'s comments concerning this matter, the Commission understands that R.A.B. tries to obtain different type of informations relating to the role of judges in alleged proceedings which would contained possible interception of communications made by the Applicant.

[12] These type of informations are not under the definition of article 1 of the Act:

1. This Act applies to documents kept by a public body in the exercise of its duties, whether it keeps them itself or through the agency of a third party.

This Act applies whether the documents are recorded in writing or print, on sound tape or film, in computerized form, or otherwise.

[13] Furthermore, the Act does not apply to judges nor to court files.

[14] Article 3 of the Act clearly stipulates:

3. The Government, the Conseil exécutif, the Conseil du Trésor, the government departments and agencies, municipal and school bodies and the health services and social services institutions are public bodies.

For the purposes of this Act, the Lieutenant-Governor, the National Assembly, agencies whose members are appointed by the Assembly and every person designated by the Assembly to an

office under its jurisdiction, together with the personnel under its supervision, are classed as public bodies.

The courts within the meaning of the Courts Justice Act (chapter T-16) are not public bodies.

[15] **FOR THESE REASONS, THE COMMISSION:**

REJECTS the application for review in terms of access of the Applicant against the Ministère de la Justice;

CLOSES the present file bearing the number 02 10 37.

CHRISTIANE CONSTANT
Commissioner

Montreal, August 12, 2003