

File: 02 10 38
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 April 1st, 2002, R.A.B. sent a letter to the Ministère de la Justice (the « Ministère »), indicating that he is authorized by the Applicant to request the followings:

- All personal information which concerns the SUBJECT;
- A list of all persons who have consulted information which concerns the SUBJECT;
- A list of categories of persons who were exempted from registering when they consulted information which concerns the SUBJECT.

[2] On May 6, 2002, Mr. Pierre Dion, who is Access to Information Officer for the Ministère, responds to R.A.B. that the consent he provided to obtain such information concerning the Applicant is not valid. Mr. Dion also indicates that the consent must be an original document and include 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] Furthermore, considering the request too vague, Mr. Dion indicates to R.A.B. that according to article 42 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*¹ (the « Act »), « a request for access to a document must be sufficiently precise to allow the document to be located ». According to Mr. Dion, the information provided by R.A.B. does not allow the Ministère to identify the documents he wishes to obtain.

[4] On May 23, 2002, R.A.B responds to the Ministère by providing a list of twenty-one type of informations which mainly relate to the role of judges in alleged proceedings which would concern possible interception of communications made by the Applicant.

[5] On June 4, 2000, Mr. Pierre Legendre, who is also Access to Information Officer for the Ministère, indicates to R.A.B. he cannot proceed with the request, since the consent he provided, on behalf of the Applicant, is not valid for the reasons mentioned in his letter.

[6] On June 11, 2002, R.A.B. sends to the Ministère some clarifications and on July 3rd, 2002, he asks the Commission d'accès à l'information (the « Commission ») to review the Ministère's decision.

THE DECISION

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

[8] 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.

¹ R.S.Q., c. A-2.1.

[9] On November 21, 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 than January 10, 2003.

[10] R.A.B requests an extension of the delay to respond; it was granted by the Commission.

[11] On March 15, 2003, R.A.B. sends his comments. He mainly states that he provided sufficient informations, in order for the Ministère, to locate the informations he requested. He also states that the Ministère must be obliged to provide to him the requested informations. R.A.B. also maintains that the consent signed by the Applicant is still valid.

[12] 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 ».

[13] Considering 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 proccedings which would contained possible interception of communications made by the Applicant.

[14] These type of informations are not under the definition of article 1 of the Act which indicates that:

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.

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

[16] 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.

[17] **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 38.

CHRISTIANE CONSTANT
Commissioner

Montreal, August 12, 2003