

**REPORT WITH RESPECT TO THE APPLICATION  
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION  
REQUESTED FROM SASKATCHEWAN WORKERS' COMPENSATION BOARD**

The Applicant applied to the Saskatchewan Workers' Compensation Board (the "Board") for " a list of all employees" of the Board. By letter dated November 10, 1998 he was advised that his request was refused. The letter stated in part:

"The information that you have requested is personal information as defined by clause 24(k) of *The Freedom of Information and Protection of Privacy Act* (the "FOI Act"). Section 29(1) of the Act provides that personal information will not be released without the consent of the individual to whom the information relates."

[REDACTED] filed a Request for Review. Following on this request I wrote a letter to the Board on December 1, 1998 as follows:

"I have received a Request for Review *The Freedom of Information and Protection of Privacy Act* (the Act) from [REDACTED] with respect to his application under the Act for a list of all the employees of the Board. He has forwarded to me a copy of your letter of November 10, 1998 in which you refused access, relying upon Section 24(1)(k) and Section 29(1) of the Act.

Section 24(1)(k) provides:

"24(1) Subject to subsection 2 personal information means personal information about an identifiable individual that is recorded in any form and includes:

(k) the name of the individual where:

- (i) it appears with other information that relates to the individual; or
- (ii) the disclosure of the name itself would reveal personal information about the individual."

It would not appear to me that the disclosure of the names of the employees of the Board would disclose other information about them except for the fact that they are employed by the Board. Furthermore, Section 24(2) provides in part:

"24(2) Personal information does not include information that discloses:

- (a) the classification, salary, discretionary benefits or employment responsibilities of an individual who is or was an officer or employee of a government institution or a member of the staff of a member of the executive council."

Apart from the foregoing, the Saskatchewan Court of Appeal has held that disclosure of what might otherwise be considered personal information is not prohibited unless the disclosure would constitute an unreasonable invasion of privacy of the individual (see *General Motors Acceptance Corporation v. Saskatchewan Government Insurance*, 1994, 1116 S.R. 36). The Court of Appeal held that "personal information" should not be so classified under the Act unless the circumstances were such that there was a reasonable expectation of confidentiality or privacy."

As a result I received representations from the Board and had some discussions with their solicitor. They referred to a long history of discord between [REDACTED] and the Board, or at least some employees of the Board, and argued that disclosure would be an unreasonable invasion of the privacy of some employees since, in view of the history which they referred to, they suggested that some employees could be placed in a position where their health and safety was at risk which raised the issue of the provisions of Section 21 of the Act which provides:

"21 A head may refuse to give access to a record if the disclosure could threaten the safety or the physical or mental health of an individual."

A further question which arose was the bona fides of the Applicant in requesting the names of all of the employees of the Board, and whether such request was frivolous or vexatious or not made in good faith, and the implication therefore with respect to Section 50(2) of the Act which provides:

"50 (2) The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

- (a) is frivolous or vexatious;
- (b) is not made in good faith; or
- (c) concerns a trivial matter."

I then arranged an interview with [REDACTED] who arrived at my office with correspondence between himself and the Board including:

1. a copy of a letter which he wrote to the Board dated August 8, 1998:

"Further to your letter dated April 27th, 1998, wherein you have stated, that if the decisions that have been made by the Client Service Representative were not satisfactory to me in regards to my claims(s), I could appeal to the Appeals' Committee.

I therefore, request that I be supplied with, the names of all of the members of the Appeals' Committee, that may or may not be involved in the further decisions as made in regards to my claim(s)."

2. a letter from the Board in reply dated August 18, 1998:

"This is in response to your letter dated August 8, 1998.

Please note that I see no relevance to providing you with the names of each and every member of the Appeals Committee. If you wish to appeal a decision to the Committee, direct your correspondence to the Manager of the Appeals Committee. Once your appeal has been heard, you will receive correspondence from the Committee member who dealt with your appeal. Having the names of the members of the Appeals Committee who may or may not be hearing your appeal would be of no benefit."

3. a copy of a letter dated August 20, 1998 from [REDACTED] to the Board expressing disappointment and dissatisfaction with their refusal and stating:

"I understand a list of WCB employees is available upon request. Therefore I request that you provide me with a copy of that list"

In this connection I observe that this understanding was based upon the fact that on some earlier occasion the Applicant had asked for and received a list of employees from the Board.

By letter dated December 17, 1998 the Board replied:

"This is in response to your letter of August 20, 1998.

Should you require a list of our personnel, I would suggest you contact our Solicitor, Mr. Evan Bennett, to obtain this information through the Freedom of Information Act.

For the record, I wish to point out that you are not being discriminated against. This information would not be released to anyone unless they go through the same procedure as yourself."

By letter dated September 22, 1998 the Applicant expressed his dissatisfaction with the reply and then received a letter dated October 14, 1998 from the Board stating:

"This is in response to your letter of September 22, 1998.

Please note that it has never been the Board's policy to provide a list of its employees. If a list has been provided to you in the past, this has been done in error.

I do wish to point out that the names of the employees are not a secret but in fact can be released, but only if you apply through *The Freedom of Information Act*. Please direct your correspondence to our Solicitor, Evan Bennett.

I trust this matter is at an end."

In my discussion with [REDACTED] I was advised that he was only interested in obtaining the names of the members of the Appeals Committee, and that he had only asked for and then applied for the names of all employees because of his understanding that such a list was available and would be provided. He has agreed to reduce his formal request under the Act to the names of the members of the Appeals Committee.

In the circumstances I do not consider the suggestion that the request is either frivolous or vexatious or not made in good faith to be well founded. Furthermore, the onus is upon the Board to establish that there is some basis for apprehension for the "safety or the physical or mental health of an individual."

While there is a long history of disagreement and discontent on the part of [REDACTED] with actions of the Board, and while there have been complaints by employees of the Board of harassment, and of the publication by the Applicant of what some employees consider to be insulting and inappropriate statements in correspondence to the minister responsible for the Board, it has failed to establish that any such conduct was a threat to the physical or mental health of any individual or to the safety of any individual.

For the reasons stated in my previously quoted letter to the Board it does not appear to me that disclosure of the names of the members of the Appeals Committee would be an unreasonable invasion of their privacy. In this respect I note that the names and phone numbers of more than 45 officers or employees of the Board are published in the current issue of the Saskatchewan Government Directory which is available to the public.

Consequently I recommend that the names of the members of the Appeals Committee be disclosed to the Applicant who has agreed to limit his request to these individuals.

Dated at Regina, Saskatchewan this                      day of January, 1999.

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**Derril G. McLeod, Q.C.,  
Commissioner of Information and  
Privacy for Saskatchewan**