

Date: 20070312
Place: Vancouver

In the Matter of:

The Freedom of Information and Protection of Privacy Act,
R.S.B.C. 1996, c. 165 (the "Act")

And in the Matter of:

An Adjudication Under Section 62 of the Act,
Requested by V. (A.N.T.) on 23 May 2006

Reasons for Decision

of the

Honourable Mr. Justice Bauman

Counsel for the Commissioner

S. E. Ross

On his own behalf:

V. (A.N.T.)

Written Submissions Received:
(on behalf of the Commissioner)

1 November and
4 December 2006

Written Submissions Received:
(on behalf of the applicant)

22 November and
13 December 2006

[1] The applicant in his request for the appointment of an Adjudicator under the ***Freedom of Information and Protection of Privacy Act***, R.S.B.C. 1996, c. 165 (the "**Act**") of 23 May 2006 cites the Commissioner's alleged "failure to respond to the undersigned Applicant's numerous requests for correction of personal information in the custody of the Commissioner."

[2] The Applicant repeats this essential claim in his submission of 22 November 2006.

[3] The nub of the Applicant's complaint is that the Commissioner allegedly altered the Applicant's "Statement of Claim" filed in connection with a complaint to the Office of the Commissioner.

[4] Counsel for the Commissioner takes the preliminary objection that the application is in respect of records not subject to the **Act** by virtue of s. 3(1)(c) thereof:

Scope of this Act

3 (1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

...

(c) subject to subsection (3), a record that is created by or for, or is in the custody or control of, an officer of the Legislature and that relates to the exercise of that officer's functions under an Act;

[5] Counsel for the Commissioner cites numerous adjudication decisions in this regard, including:

R.G. v. Information and Privacy Commissioner (November 10, 1997);

C.M. v. Information and Privacy Commissioner (January 5, 1998);

M.H. v. Information and Privacy Commissioner (May 5, 1998);

F.G.B. v. Information and Privacy Commissioner, (March 1, 1999);

F.G.B. v. Information and Privacy Commissioner (May 17, 2000);

J.A.B-A. v. Information and Privacy Commissioner (November 24, 2000);

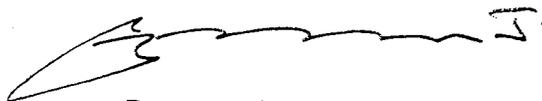
C.F. v. Information and Privacy Commissioner (July 28, 2003); and

Y. v. Information and Privacy Commissioner (October 8, 2003).

[6] Counsel then continues:

The decisions in *F.G.B. v. Information and Privacy Commissioner* (May 17, 2000), at paras. 9-13, and *J.A.B-A. v. Information and Privacy Commissioner* (November 24, 2000), at paras. 14 - 19, are of particular interest because they concern requests [for] correction of personal information in operational records held by the Commissioner. These decisions confirm that the Commissioner has no authority under s. 29 of FIPPA to correct personal information if the record concerned is excluded from FIPPA by virtue of s. 3(1)(c). And also that there is, accordingly, no correction issue for review by an Adjudicator.

[7] In my view, these submissions are correct. I am, accordingly, without jurisdiction to entertain the complaint. There are other branches to counsel's preliminary objection, but in the circumstances it is not necessary to rule on those further objections.



Bauman J.