

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 122-1996
September 4, 1996**

INQUIRY RE: A request for a review of the response by the British Columbia Assessment Authority to an applicant's access request

**Fourth Floor
1675 Douglas Street
Victoria, B.C. V8V 1X4
Telephone: 604-387-5629
Facsimile: 604-387-1696
Web Site: <http://www.cafe.net/gvc/foi>**

1. Introduction

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on July 15, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of an applicant's request for a review of the response by the British Columbia Assessment Authority (BCAA/the public body) to his access request dated March 3, 1996.

2. Documentation of the inquiry process

The records that the applicant is seeking pertain to his property assessment. With respect to this, the applicant requested "records that show: time adjustments of the comparables; size adjustments, land, of the comparables; value of view; topography adjustment; the increase in value of kitchen renovation; sales study detailed report improved--for neighborhood 204, Merritt Bench; your authority to enter my house and search for value."

The applicant also asked for records that prove: "the building costs for my house in \$24.07 per square foot, on July 1, 1995; the house is 12% above basic; the fireplace costs \$1740; your depreciation rate; my land value is \$66,400."

Finally, the applicant asked for a record substantiating that the average assessment value for Merritt rose approximately 16.5% in 1996.

The BCAA's response of March 12, 1996 stated that the records for his own property were available to him and that he did not need to make a request under the Act. It suggested that his general questions "can best be answered by the Kamloops Assessment office, who are

responsible for the assessments in your jurisdiction.” It stated that the Kamloops Area Assessor would respond shortly. A response letter was dated April 9, 1996.

The applicant was not satisfied with the response that he received and filed a request for review with my Office on April 11, 1996.

3. Issue under review at the inquiry

The issue under review at the inquiry is whether the BCAA conducted an adequate search for the applicant’s records. The relevant section of the Act is as follows:

Duty to assist applicants

6(1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

4. Burden of proof

Section 57 of the Act establishes the burden of proof on parties at an inquiry into a decision to refuse access. The Act is silent with respect to the burden of proof at an inquiry about the adequacy of a search. As a public body is in a better position to address the issue of an adequate search, I have determined in this and other cases that the BCAA has the burden of proving that it conducted an adequate search for the records that the applicant has requested.

5. The B.C. Assessment Authority’s case

The BCAA states that it has already given the applicant all of the records that it has pertaining to his request. It also explains how it uses what information it has about the applicant’s residence for the development of valuation estimates to establish a basis for the municipality to levy a tax. It offers to print available sales data for the applicant at nominal cost.

The BCAA concludes that it has “complied fully with [the applicant’s] request and we have no further records to offer him.”

6. The applicant’s case

I have presented below, as I deemed it appropriate to do so, relevant portions of the applicant’s argument.

7. Discussion

It seems evident that this applicant is not happy with his property tax assessment and that he is aware of his avenues of redress in this regard. The BCAA states that it has given him all of the relevant records for his property and has offered to make additional information available to him at the nominal cost of copying.

The applicant is also unhappy about the fact that section 13 of the *Assessment Act* permits the BCAA to enter his home. It is his view that it should provide him with “evidence in the form of, for example, a summary of court cases, where the court clearly states that section 13 of the *Assessment Act* is lawful.” He also wants additional evidence “to substantiate any of their actions, and why the portions of the *Assessment Act* pertaining to my house are lawful and not a contravention of the *Canadian Charter of Rights and Freedoms*.” There is no obligation under the Act for a public body to provide such background information to any applicant. Most of the applicant’s concerns are not matters that I am able to address under the Act.

8. Order

I find that the British Columbia Assessment Authority has proven that it conducted an adequate search for the records requested by the applicant and has complied with its duties under section 6(1) of the Act.

Section 58(1) of the Act requires me to dispose of the issues in an inquiry by making an order under this section. I find that the British Columbia Assessment Authority has made a reasonable effort to assist the applicant within the meaning of section 6(1).

Under section 58(3)(a), I require the British Columbia Assessment Authority to perform its duty under section 6(1) to make every reasonable effort to assist the applicant. However, since I have found that the response to the applicant was reasonable, I find that the B.C. Assessment Authority has complied with this order and discharged its duty under section 6(1) of the Act.

David H. Flaherty
Commissioner

September 4, 1996