

FREEDOM OF INFORMATION CASE NOTES

Confidential information *Information Act s.55*

The complainant sought a copy of a complaint made against him concerning an allegedly illegal structure on his property. He specifically requested that the complainant's name and particulars be blocked out. The organisation argued that the information was exempt because it was communicated in confidence.

The decision maker found that in order for information to be communicated in confidence, there needed to have been, at the time the information was given, a shared understanding (either express or implied) by both the giver and the receiver that the information would be kept confidential. The shared understanding of confidentiality must also be continuing.

In this case, the decision maker was provided with no evidence to suggest the author of the complaint requested that the complaint be kept confidential, or that any discussions about confidentiality occurred. The exemption does not apply in the absence of such information. There was sufficient *prima facie* evidence to substantiate the complainant's argument that the exemption had been applied incorrectly.

The decision maker also considered whether, had the information been communicated in confidence, disclosure of the information would be reasonably likely to impair the ability of the organisation to obtain similar information in the future. In this case, the person who had made the complaint about the structure stated that he did not want the information disclosed to the complainant.

The decision maker agreed with the organisation that it was in the public interest that such similar information continues to be obtained, however was not persuaded that release of the document would be reasonably likely to impair collection of similar information in the future.