

Decision D0312008 - Published in note form only

Re Parolo and Shire of Serpentine Jarrahdale [2008] WAICmr 31

Date of Decision: 29 July 2008

Freedom of Information Act 1992: section 26

In November 2007, the complainant received a letter from the Shire of Serpentine Jarrahdale ('the agency') advising him that complaints had been received in relation to his property and that as a result a site inspection had been carried out by officers of the agency. Accordingly, in February 2008, the complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the agency for access to certain documents. The agency refused the complainant access to the requested documents under s.26 of the FOI Act on the basis that the documents cannot be found or do not exist.

The complainant requested an internal review disputing the agency's decision. On 7 April 2008, the agency confirmed its original decision. On 19 May 2008, the complainant applied to the A/Information Commissioner ('the A/Commissioner') for external review of that decision.

On receipt of this complaint, my office made further inquiries with the agency in relation to the searches it conducted to locate the requested documents. On 12 June 2008, the complainant was advised in writing that, on the basis of the information before the A/Commissioner, it appeared that the agency had taken all reasonable steps to find the requested documents. The complainant was invited to suggest further reasonable searches or inquiries that could be made. The complainant responded confirming he did not wish to withdraw his complaint.

In the circumstances, the A/Commissioner was not dissuaded from the view expressed in the letter of 12 June 2008 to the complainant. The A/Commissioner considered that the agency had taken all reasonable steps to find the requested document or documents and was satisfied that the document or documents could not be found or did not exist.

Although the A/Commissioner could not make a finding on the administrative practices of the agency, he considered that the circumstances of this complaint highlight the fundamental importance of proper record keeping in terms of State and local government agencies' accountability for their processes, actions and decisions, particularly decisions that directly and significantly affect individuals. The A/Commissioner also considered that as a matter of good administrative practice, if the Council was holding what it calls "Concept Forums" where matters regarding ratepayers were being discussed, there would be some documentation concerning those discussions. The agency did advise the A/Commissioner that it has now changed the process for receiving and acknowledging matters raised by Councillors during the "Concept Forums", so that those matters are required to be in writing, and a written acknowledgement is sent to the Councillor in response to the matter raised.