

Decision D0122002 – Published in note form only

Re Penn and Penn and Shire of Mundaring [2002] WAICmr 12

Date of Decision: 21 March 2002

Freedom of Information Act 1992: Schedule 1 clause 3(1)

In September 2001, a third party made an application to the agency, under the FOI Act, for access to documents containing personal information about the complainants. The agency consulted with the complainants about the disclosure of the requested documents, but the complainants did not consent to the disclosure of the documents and claimed they were exempt under clause 3(1) of Schedule 1 to the FOI Act.

The agency considered the complainants' objections, but decided to give the third party applicant access to edited copies of the requested documents. However, the agency deferred giving access to the requested documents to allow the complainants to exercise their rights of review under the FOI Act. The complainants then lodged a complaint with the Information Commissioner seeking external review of the agency's decision.

The Information Commissioner obtained the disputed documents from the agency and examined them. The Information Commissioner was satisfied that the disputed documents contained a substantial amount of personal information about the complainants. The Information Commissioner considered whether it was practicable for the agency to give the third party applicant access to edited copies of the disputed documents. The Information Commissioner formed the view that deleting the personal information about the complainants would require substantial editing of the documents. The Information Commissioner concluded that it was impracticable to delete the personal information from each of the disputed documents, because to do so would result in a document that was misleading, unintelligible and made little or no sense.

In deciding whether disclosure would, on balance, be in the public interest, the Information Commissioner noted that the disputed documents relate to an ongoing neighbourhood dispute and that the agency had provided the third party with a good deal of information about the issue, and about the actions which the agency had taken to resolve the dispute. In those circumstances, the Information Commissioner gave more weight to the public interest in protecting the privacy of the complainants and she set aside the decision of the agency.