

**Decision D0162003 – Published in note form only**

***Re Macnish and Shire of Bridgetown-Greenbushes* [2003] WAICmr 16**

**Date of Decision: 13 May 2003**

***Freedom of Information Act 1992; clause 3(1)***

In October 2002, the agency received a request for access to documents relating to an application submitted to the Ministry for Planning ('the Ministry') in July 1998, to subdivide certain land located in the Shire of Bridgetown-Greenbushes. The requested documents included a letter written by the complainant, the former Chief Executive Officer of the agency, to the Ministry, which is held on the agency's subdivision file relating to that application.

The agency decided to give access to the disputed letter, but deferred the giving of access to allow the complainant, who is a third party under the FOI Act, time to exercise his rights of review under the FOI Act. The complainant lodged a complaint with the Information Commissioner and claimed that the disputed letter was a personal letter, which contained personal information, and was therefore exempt under clause 3(1).

The Information Commissioner obtained the disputed letter from the agency and examined it. The Information Commissioner was satisfied that the disputed letter contained some personal information about the complainant and about other people. However, the Information Commissioner considered that the limits on exemption in clause 3(3) applied to matter, which was personal information about officers of the agency and accordingly, that that information was not exempt under clause 3(1). The Information Commissioner considered, nonetheless, that it would be practicable for the agency to delete personal information about the complainant and to provide access to an edited copy of it.

The Information Commissioner rejected the complainant's claim that the disputed letter was a personal letter. The Information Commissioner noted that the document was not marked "Private" or "Personal". Rather, it was addressed to the Ministry's Bunbury Office and it referred to, among other things, the complainant's concerns about the processing of the development application; various issues relating to the Ministry's planning processes and the role and functions of officers of the Ministry in that process.

The Information Commissioner also had regard to the fact that the complainant, acting in his capacity as Chief Executive Officer of the agency, had sent a copy of the disputed letter to the Chief Executive Officer of the Ministry, and that it was also filed on the agency's subdivision file, along with the other relevant documents. Taking all of that into account, the Information Commissioner considered that the disputed letter was not a personal document of the kind described by the complainant and found that it was not exempt under clause 3(1). The Information Commissioner confirmed the agency's decision to give access to the disputed letter.