

RILEY AND HOMESWEST

OFFICE OF THE INFORMATION COMMISSIONER (WA)

Decision summary issued pursuant to s.76(8) of the *Freedom of Information Act 1992*

COMPLAINT No: 95171

DECISION No: D02196

PARTIES: Timothy Noel Riley

Complainant

**The State Housing Commission of Western
Australia (Homeswest)**

Respondent

No. of documents in dispute: 10

Exemption clause(s) found applicable: 3(1)

On 23 May 1995, the complainant applied through his solicitors to The State Housing Commission of Western Australia trading as Homeswest ('the agency') for access under the *Freedom of Information Act 1992* ('the FOI Act') to documents relating to properties occupied or formerly occupied by the complainant. The agency granted the complainant full access to 645 folios, access to edited copies of 42 other folios from which exempt matter had been deleted and denied access to 37 folios. On 25 July 1995, the complainant sought internal review of the agency's decision. On 11 August 1995, the agency varied its decision in respect of 27 folios and confirmed its decision in respect of 52 other folios. On 28 August 1995, the complainant sought external review by the Information Commissioner.

I obtained copies of the disputed documents from the agency. Following a meeting with one of my investigations officers, the agency agreed to release further information to the complainant. After examining the documents remaining in dispute and considering the submissions of the parties, on 5 February 1996 I provided the parties with my preliminary view and detailed reasons for that view. I also provided the parties with a schedule detailing the matter in each document for which exemption was claimed by the agency under clause 3(1) of Schedule 1 to the FOI Act, and which, in my preliminary view, was, *prima facie*, exempt matter under clause 3(1). After being informed of my preliminary view, and after further negotiations by my office with the parties, the agency decided to disclose further matter and typed transcripts of some documents. The complainant's solicitor accepted revised copies of some of the documents in dispute with matter deleted, after those copies had been checked by my office to ensure that the retyped copies were representations of the originals and that only matter which was, in my preliminary view exempt, had been deleted. However, the complainant's solicitor remains dissatisfied with the amount of material deleted from 10 documents. Therefore, this decision is a decision in respect of the matter deleted from Documents (referred to by the agency as folios) 19, 51, 52, 61, 63, 120, 141, 143, 177 and 190 only.

The Documents in Dispute

The disputed documents comprise letters of complaint to the agency concerning aspects of the complainant's tenancy in agency properties. Some of the disputed documents are hand-written letters of complaint. All of the disputed documents have been described in the schedule provided with my preliminary view. I am satisfied that the complainant and his solicitor have been informed of, and should be aware of, the nature and type of matter contained in the documents which is claimed by the agency to be exempt matter under clause 3(1). Without breaching my duty under s.74(2) of the FOI Act, the disputed matter consists of matter which would identify third parties, including information about the personal lives of the authors of the documents. Further, I am satisfied that the deleted matter is "personal information" about third parties, as defined in the Glossary in Schedule 2 to the FOI Act.

The exemption - clause 3(1)

Clause 3, so far as is relevant provides:

“Exemption

(1) Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).

Limits on exemption

...

(6) Matter is not exempt matter under subclause (1) if its disclosure would, on balance, be in the public interest.”

As I am satisfied, from my examination of the disputed documents, that their disclosure would reveal personal information about individuals other than the complainant, the complainant bears the onus under s.102(3) of the FOI Act of persuading me that disclosure would, on balance, be in the public interest.

The complainant’s submission

The complainant’s solicitor submitted that only the names and addresses of third parties should be deleted from the documents and that deletions should, therefore, be restricted to such material that would identify the third parties. It was submitted that information other than names and addresses of complainants was not exempt because it facilitates the complainant’s right of access; it provides a means of ensuring that information is accurate and not misleading; it affords the complainant procedural fairness in his dealings with the agency and its decision-making processes; disclosure enables the complainant to assess the accountability of the agency for its decision-making; and, as a matter of public policy, determinations made on the basis of race or racial stereotypes are unlawful and are to be discouraged.

The public interest

I consider that there is a strong public interest in maintaining the privacy of individuals about whom personal information is contained in documents held by government agencies. I also consider that there is a public interest in maintaining the ability of the agency to receive, investigate and act upon complaints about tenants who occupy its properties. However, I also consider that there is a public interest in a person being informed of any allegations made against him or her and being given an opportunity to respond to those allegations. There is also a public interest in a person being able to access documents containing personal information about him or her, and in being able to correct any information that is incorrect, inaccurate out of date or misleading. There is also a public interest in any person being able to exercise his or her rights of access under the FOI Act.

In this case, I am satisfied that the complainant has been informed of the nature and substance of all of the allegations against him, by both the agency informing him of them at the time and through those documents and parts of documents already disclosed to him by the agency. I consider that the relevant public interest is satisfied by the release of edited copies of the disputed documents to the complainant. In balancing the competing public interests, I do not consider that there is any public interest in disclosing the private and personal information concerning third parties that has been deleted from the disputed documents. Such disclosure would not satisfy any of the public interests which I have recognised, nor would it assist the complainant in the exercise of his rights under the FOI Act. The decision of the agency is confirmed. I find the following matter is exempt matter under clause 3(1) of Schedule 1 to the FOI Act:

Document 19 - lines 10-14 on page 1 and lines 2-4 on page 2;	Document 120 - lines 7-20 on page 2;
Document 51 - lines 18-20 (page 1);	Document 141 - lines 2-6 and lines 8-13;
Document 52 - lines 8-10 (page 2);	Document 143 - lines 4-7 and 9-13 on page 2;
Document 61 - lines 1-5, 10-13, 15 and 16;	Document 177 - lines 6-17; and
Document 63 - lines 7-18;	Document 190 - lines 27-30.

B. KEIGHLEY-GERARDY
INFORMATION COMMISSIONER
29th April 1996