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CASE SUMMARY: AN APPLICATION FOR INFORMATION FROM EXEMPTED RECORDS - NOT FOR THE RECORDS - IS NOT A VALID APPLICATION FOR ACCESS TO INFORMATION

Administrative law – Decisions reviewed – Privacy commissioner – Freedom of information and protection of privacy – Municipal employees – Disclosure – Judicial review – Appeals – Jurisdiction

Raymond v. Nova Scotia (Information and Privacy Commissioner), [2019] N.S.J. No. 7, 2019 NSCA 1, Nova Scotia Court of Appeal, January 11, 2019, P. Bryson, E. Van den Eynden and A.S. Derrick JJ.A.

The appellant Raymond sought to obtain answers to questions she had about discussions at in camera meetings of the Halifax Regional Municipality (“HRM”) council.

Raymond understood a request for access to the records of the in camera meetings would be denied under the *Municipal Government Act*, S.N.S. 1998, c. 18 (the “Act”). For that reason, she framed her request for access to information as requests for “information” relating to the in camera meetings, not for the “records” of the in camera meetings.

HRM denied the request for access to information.

Raymond sought a review of the denial to the Office of the Information and Privacy Commissioner (the “Commissioner”). The Commissioner concluded she had no jurisdiction under the Act to conduct a review of a denial of a request for “information.”

Raymond sought judicial review of the Commissioner’s decision. The reviewing judge concluded the Act provides for access to information contained in a record by providing access to the record, unless the record is exempted. The records of the in camera meetings were exempted. The application for judicial review was dismissed.

On appeal, the Court of Appeal held the application for “information” rather than “records” did not constitute a valid request under the Act. The Court found Raymond knew there was no entitlement to the records sought, and for that reason framed her request for “information.” The Court confirmed there was no jurisdiction under the Act to disclose “information” in relation to an exempted record.

The appeal was dismissed.

This case was digested by [Joel A. Morris](#), and first published in the LexisNexis® Harper Grey Administrative Law Netletter and the Harper Grey Administrative Law Newsletter. If you would like to discuss this case further, please contact Joel A. Morris at jmorris@harpergrey.com.