

independent verification by the Department. The Petitioner sought to obtain a copy of the study in late 2005. His e-mail to the Minister states in part:

This past season your department once again distributed this competitor's brochure. The brochure updated and reprinted from 2004 contained the same claim regarding our operation, "studies have shown that fewer people get seasick on a v-hull than a motion prone twin hull", again the study was not identified. In accordance with the guidelines, we requested your department ensure the brochure identified the study. Though the guidelines gave your department the opportunity to ensure the study was identified to the public, it instead chose to request supporting information so as to make its own judgment as to the validity of the claim. It was brought to my attention that a single study was provided by the competing company. Your department in its ruling found the brochure met the guidelines and could be raked. I have asked that your department identify the study which supports the decision, however they have refused, stating the company wished it to remain confidential.

4. On December 29, 2005, the petitioner followed up on the correspondence quoted in part above and formally sought access to the study relied upon by his competitor. The Minister's letter of February 2, 2006 refusing to release the report was succinct and states in its material part as follows:

I am writing in response to your request for information under the *Right to Information Act* to reveal the identity of, or produce copy of, a study that a competitor quotes in their advertising brochure related to seaworthiness.

Please be advised that the Department of Tourism and Parks is unable to provide you with neither the name, nor a copy of this report. The information was provided to the Department of Tourism and Parks in confidence, and, as such must remain confidential.

I have enclosed Form 1 (Referral) and Form 2 (Petition) if you wish to appeal this decision.

5. Upon review of the departmental records it appears that the study in question to which the Department has refused access is an article based on an academic paper presented at a June 1993 conference of the Royal Institute of Naval Architects. The paper in question was titled "Passenger comfort and seakeeping performance of fast ferries" and was presented by T. Karpinnen, K. Kyrrö and M. Hellevaara of Finland as the results of a Finnish national research programme and a Nordic cooperative research programme on the "Hydrodynamics of High Speed Vehicles". A summary and abstract of the conference paper was subsequently published in the November 1993 issue of *Ship & Boat International*, a publication of the Royal Institute of Naval Architects. The magazine is currently available on-line on RINA's website, and earlier editions of the magazine are available for order online from RINA's website : www.rina.org.uk

6. This suffices to dispose of the Right to Information Act petition. There is no obligation under the statute on a public body to disclose information which is already published and publicly available. However it is not appropriate either for the public body to refuse disclosure or identification of the information in this circumstance, even where government officials have been advised of the record's existence and asked by the person forwarding the record to treat the information in confidence. The petitioner's competitor could claim no proprietary interest, nor any reasonable expectation of privacy with respect to this information, and the petitioner should have been directed to the publisher of the scientific study by departmental officials when he asked them for it.
7. In the result there is no recommendation required in this matter and the file in respect of this petition will now be closed.

Dated at Fredericton, this 24th day of March, 2006.

Bernard Richard, Ombudsman