

motion introduced by Mr. Foran in the Legislature did not constitute an application for release of information within the meaning of section 3(2) of the *Right to Information Act*. The referral was therefore deemed premature and the petitioner directed to make a regular application.

4. The petitioner filed an access request with the Minister shortly thereafter, on February 8, 2006. The request was set out in near identical terms to Mr. Foran's earlier motion:

“Under the provisions of the *Right to Information Act*, please provide me with the following information: All correspondence, including minutes of meetings, letters, e-mails, memoranda, briefing notes, hand-written notes, reports, analysis and research pertaining to the investigation that was conducted by Dr. Badley, for the Miramichi Regional Health Authority that was released in 2005 regarding the internal concerns at the Miramichi Regional Hospital following the resignation of Dr. McAvinue.”

5. In his June 27, 2006 letter of response, the Minister declined to grant the applicant's request. The Minister relied upon subsections 6(f.2) and (f.3) of the *Right to Information Act*, which stipulate that there is no right to information under the Act where its release

(f.2) would disclose the subject or substance

(i) of minutes of the meetings of a school board, of a community board, of the board of directors of a regional health authority or of a committee of any such board, that were not open to the public,

(ii) of briefings to members of such a board or committee respecting matters that were, are or are proposed to be brought before such a meeting, or

(iii) of discussions, consultations or deliberations among members of such a board or committee respecting such a meeting;

(f.3) would disclose advice, opinions, proposals, recommendations, analyses or policy options provided, given or made to or for a school board, a community board, the board of directors of a regional health authority or a committee of any such board for the purposes of the board or committee in exercising its powers and performing its duties and functions;

6. The petitioner then proceeded under section 7(1)(b) of the *Right to Information Act* to request a review of the matter, whence the present recommendation.
7. I delegated Mr. Christian Whalen, Counsel for the Office of the Ombudsman, to meet with departmental officials to conduct an *in camera* review of the materials

which had been withheld pursuant to the provisions referenced above. Mr. Whalen conducted his review on July 28, 2006. The central document was an investigation report commissioned by the Miramichi Regional Health Authority and prepared by an outside physician. The purpose of Mr. Whalen's review was to verify that the exemptions invoked by the Minister were appropriate under the circumstances.

8. I have previously had occasion to note that the various exemptions to disclosure contemplated in the *Right to Information Act* should be narrowly construed. Their proper application will often require the balancing confidentiality concerns against the public interest in administrative transparency: see, for example, NBIOR-02, February 14, 2006.
9. This notwithstanding, the exemptions set out in subsections 6(f.2) and (f.3) provide a broad discretion to shelter closed-door sessions of hospital and school boards from public scrutiny. In the result, the deliberative processes of these bodies are not subject to transparency requirements as rigorous as those expected of the centralized government administration.
10. Accordingly, I find that the Minister's reliance on subsections 6(f.2) and (f.3) of the *Right to Information Act* to deny the petitioner's request is legally correct.

DATED AT FREDERICTON, THIS 1st DAY OF SEPTEMBER, 2006.

Bernard Richard, Ombudsman