



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-529

Appeals P-910274 and P-910779

Ministry of Transportation



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ORDER

BACKGROUND:

The Ministry of Transportation (the Ministry) received two requests under the Freedom of Information and Protection of Privacy Act (the Act) from the same individual for information relating to GO Transit service to Peterborough. The first request covered the period from August 1, 1989 to the date of the request (December 22, 1990) while the second encompassed the period from January 1 to April 30, 1991 (or the date that the request would be processed by the Ministry), whichever was later.

In both cases, the Ministry granted access in full to a number of records. The Ministry refused, however, to disclose other documents, either in whole or in part, under sections 12(1), 13(1), 14(1)(a) and (b), 15(a) and (b), 17(1), 18(1)(a), (c), (d), (e), (f) and (g), 19 and 21(1) of the Act. The requester appealed the Ministry's decisions.

During the course of mediation, the Ministry released additional records to the appellant, who also agreed to narrow the number of documents that he was seeking. As a result, the exemptions upon which the Ministry continues to rely involve sections 12(1), 13(1), 17(1)(a), (b) and (c), 18(1)(c) and (d) and 19 of the Act. For ease of reference, the 28 records which remain at issue are listed in Appendix A which is attached to this order.

Further mediation was not successful and notice that an inquiry was being conducted to review the Ministry's decisions was sent to the appellant, the Ministry and to five parties whose interests might be affected by the disclosure of the information (the affected persons). Representations were received from the appellant, the Ministry and three affected persons.

For ease of reference, I have designated each of the records at issue in the first appeal (P-910274) with the suffix "A" and the records at issue in the second appeal (P-910779) with the suffix "B".

ISSUES:

The issues to be determined in these appeals are:

- A. Whether the mandatory exemption provided by section 12(1) of the Act applies to the records.
- B. Whether the discretionary exemption provided by section 13(1) of the Act applies to the records.
- C. Whether the discretionary exemption provided by section 19 of the Act applies to the records.

- D. Whether the mandatory exemptions provided by sections 17(1)(a), (b) and (c) of the Act apply to the records.
- E. Whether the discretionary exemptions provided by sections 18(1)(c) and (d) of the Act apply to the records.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the mandatory exemption provided by section 12(1) of the Act applies to the records.

The Ministry claims that section 12(1) of the Act applies to all or parts of Records 11A, 70A, 73A, 74A, 75A, 2B, 5B, 12B and 18B.

Section 12(1) of the Act reads, in part, as follows:

A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of an Executive Council or its committees, including,

...

(b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;

(c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;

...

(e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy;

...

It has been determined in a number of previous orders that the use of the word "including" in the introductory wording of section 12(1) means that the disclosure of any record (not just the types of records listed in the various subparagraphs of section 12(1)), which would reveal the

substance of deliberations of an Executive Council or its committees, qualifies for exemption under section 12(1) (Orders 22, P-304 and P-376).

In addition, it is possible that a record which has never been placed before an Executive Council or its committees may qualify for exemption under the introductory wording of section 12(1). This result will occur where a Ministry establishes that disclosure of the record would reveal the substance of deliberations of an Executive Council or its committees, or that its release would permit the drawing of accurate inferences with respect to the substance of deliberations of an Executive Council or its committees (Orders 203, P-226, P-293, P-331, P-361, P-376 and P-424).

I will address the application of this exemption initially to Records 11A, 70A, 73A, 74A and 75A.

Record 11A is a status report authored by a Ministry employee, dated January 22, 1991, concerning bus services in the Peterborough/Port Perry area. The Ministry has withheld the top half of page 11 of this record pursuant to section 12(1) of the Act. The first bullet point which is exempted on the page quotes from a Cabinet minute. In my view, the disclosure of this sentence would reveal the substance of deliberations of an Executive Council and, accordingly, the bullet point qualifies for exemption under section 12(1) of the Act. The heading and the second and third bullet points which follow, however, do not reveal the substance of deliberations of the Executive Council or its committees, nor do they permit the drawing of accurate inferences about such deliberations. In my view, section 12(1) does not apply to this information and it should, therefore, be released to the appellant.

Record 70A consists of notes dated January 8, 1991 concerning a meeting held between the Minister of Transportation (the Minister) and a named company. Page 2 of this record contains brief references to a Cabinet submission and to the consideration of these materials by Cabinet. After a careful review of these notes, I find that the materials do not reveal the substance of deliberations of an Executive Council or its committees, nor would the disclosure of this information permit the drawing of accurate inferences about the substance of such deliberations. Therefore, I find that section 12(1) does not apply to this record.

Record 73A consists of notes dated February 15, 1991 regarding a meeting convened between the Minister and GO Transit personnel. The Ministry has withheld one sentence on page 1 of the record. This sentence contains a reference to the contents of a Cabinet minute. In my view, the release of this sentence would reveal the substance of deliberations of an Executive Council or its committees and is, thus, exempt from disclosure under the introductory wording of section 12(1) of the Act.

The Ministry has also relied on section 12(1) to deny access to Record 74A in its entirety. This record consists of a Cabinet Submission which contains a series of recommendations. Attached to the submission are two pages, described as a minute of the Policy and Priorities Board of Cabinet (which is a Cabinet committee). Both documents are dated November 6, 1990. The Ministry indicates that this record was considered by the Policy and Priorities Board on November 6, 1990. I find that this record is properly exempt from disclosure, in its entirety, pursuant to the introductory wording of section 12(1) of the Act.

Record 75A consists of four pages of handwritten notes of meetings and discussions held between Ministry personnel in January 1991. These sessions related to transportation issues in the Peterborough/Port Perry area. The Ministry has withheld a brief reference to a Cabinet Submission on page 1 of these notes pursuant to section 12(1) of the Act. I have considered these materials and, in my view, the mere reference to a Cabinet Submission, without any description of its contents, does not bring a document within the ambit of section 12(1) of the Act. I find, therefore, that this exemption does not apply to the notes at issue.

I will now consider Records 2B, 5B, 12B and 18B.

Record 2B is a draft document prepared for submission to Cabinet which deals with passenger transportation services in the Peterborough-Toronto corridor. In its representations, the Ministry states that this record was prepared for submission to the Executive Council and was discussed by the Policy and Priorities Board on November 6, 1990. The Ministry then submits that sections 12(1)(b) as well as the introductory wording of section 12(1) apply to this record. Having reviewed the record and the Ministry's representations, I find that this record is properly exempt from disclosure, in its entirety, pursuant to the introductory wording of section 12(1) of the Act.

Record 5B is an assessment report dated July 1990 respecting GO Transit rail services to Brantford, Peterborough and St. Catharines. The Ministry claims that this document is exempt from disclosure in its entirety pursuant to section 12(1)(b) of the Act. In my view, the portions of the record relating to Brantford and St. Catharines are not responsive to the request and fall outside the scope of this appeal. Therefore, only the covering page, the Table of Contents, pages 1 to 6, 19 to 29 and parts of page 42 must be considered for the purposes of this appeal.

In its representations, the Ministry states:

This record was prepared for submission to Executive Council. As there was a change in government, parts of this document were subsequently used in the options and recommendations presented to [the] Policy and [Priorities] Board on November [6], 1990. This record should be withheld under section 12(1)(b) of the Act.

Since portions of Record 5B also formed part of Record 74A (which was discussed earlier in this order), the Ministry was asked to clarify the relationship between these two documents. In response to this question, the Ministry responded as follows:

With the change in government in the Fall of 1990, a Cabinet Submission dealing with a broader set of transit related issues was prepared, resulting in the Cabinet Submission, Record 74[A].

As a result of the change in emphasis of the Cabinet Submission from dealing with three specific passenger rail services to dealing with a broader range of transit issues, the content of Record 5[B] was more generalized and was not transferred verbatim into Record 74[A]. However, the demand information, costing information etc. from Record 5[B] was used to develop, and formed the

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fundamental basis for, the recommendation made in Record 74[A] on passenger transportation to Peterborough.

Section 12(1)(b) establishes two criteria which must be satisfied in order for a record to qualify for exemption: the record must contain policy options or recommendations, and it must have been submitted or prepared for submission to the Executive Council or one of its committees (Order 73).

Having reviewed Record 5B, I have concluded that it does not contain policy options or recommendations. Rather, the document can more accurately be described as containing background information upon which options or recommendations could eventually be formulated. Accordingly, I find that section 12(1)(b) does not apply to this record.

Since section 12(1) is a mandatory exemption, I must now consider whether any of the other parts of this section apply to this record. As noted earlier, section 12(1)(c) of the Act allows a Ministry to withhold a record which does not contain policy options or recommendations but which does contain background explanations or analyses of problems, submitted or prepared for submission to the Executive Council or its committees. I have carefully reviewed the background information contained in this document and find that it falls within the ambit of 12(1)(c) since the materials were prepared for submission to the former Executive Council. The responsive portions of Record 5B are, therefore, exempt from disclosure under this provision.

Record 12B consists of briefing materials prepared for the Minister concerning passenger rail service in the Peterborough-Toronto corridor. The Ministry claims that section 12(1)(e) and the introductory wording of section 12(1) apply to these notes. The Ministry's representations state, more particularly, that:

This record was prepared to brief the Minister of Transportation about a matter which was to be discussed at Executive Council. On November [6] 1990, Policy and Priorities Board discussed this issue.

I am satisfied that the disclosure of this record would reveal the substance of deliberations of a committee of the Executive Council and that this record is properly exempt, in its entirety, pursuant to the introductory wording of section 12(1) of the Act.

Record 18B is a memorandum sent by the Minister of Transportation to the Treasurer of Ontario dated March 27, 1990. This document encloses briefing materials on the involvement of the province in the passenger rail system. The Ministry has relied upon sections 12(1)(b) and (e), as well as the introductory wording of section 12(1), to exempt this document from disclosure in its entirety.

In its representations, the Ministry states that this record was prepared by the Minister for submission to Executive Council and that a copy was also sent to the Treasurer of Ontario for his information. According to the Ministry, the information contained in this record was considered by the former government in the formulation of policy decisions relating to the provision of passenger rail service. In my view, this document qualifies as a record prepared to brief a

Minister of the Crown on a matter to be brought before Executive Council. On this basis, the record falls within the exemption contained in section 12(1)(e) of the Act.

In summary, I find that, with respect to Appeal P-910274, section 12(1) of the Act has been properly applied to exempt from disclosure the first bullet point on page 11 of Record 11A, one sentence on page 1 of Record 73A, and Record 74A in its entirety. Regarding Appeal P_910779, the section 12(1) exemption applies to Records 2B, 12B and 18B in their entirety and to the responsive portions of Record 5B.

In its representations, the Ministry indicates that it considered whether Cabinet consent should be sought under section 12(2)(b) of the Act to release the records for which the section 12(1) exemption had been claimed. The decision reached was that such consent should not be obtained. I have reviewed the Ministry's reasons to support this decision, and I find nothing improper in the manner in which the head of the institution exercised discretion in the present case.

ISSUE B: Whether the discretionary exemption provided by section 13(1) of the Act applies to the records.

The Ministry claims that section 13(1) of the Act applies to all or parts of Records 6A, 9A, 11A, 54A, 71A, 79A, 1B, 12B, 16B, 17B and 19B. Under Issue A, I found that Record 12B is exempt, in its entirety, under section 12(1) of the Act. As a result, it is not necessary for me to consider the applicability of section 13(1) to this record.

Section 13(1) of the Act states that:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

It has been established in a number of previous orders that advice and recommendations for the purpose of section 13(1) must contain more than mere information. To qualify as "advice" or "recommendations", the information contained in the records must relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process (Orders 118, P-304, P-348 and P-356).

I will turn first to the application of the section 13(1) exemption to Records 6A, 9A, 11A, 54A, 71A and 79A.

Record 6A is a report dated March 1991 on the evaluation of proposals submitted by a number of private bus service operators. Part of one sentence under item (i) on page 4 of the record and the second sentence under item (ii) of the same page have been withheld pursuant to section 13(1). These sentences reveal the identity of the company most likely to be chosen to operate certain transportation corridors. These passages do not, however, contain advice or a suggested course

of action for the purposes of section 13(1) of the Act and do not qualify for exemption under this provision.

The Ministry has also applied section 13(1) to part of page 10 of Record 6A to withhold information on the ranking of various proposals submitted by particular bus service operators. Once again, I am of the view that section 13(1) does not apply to this type of information.

Record 9A is an undated status report on the evaluation of bus service proposals for the Peterborough/Port Perry district. The portions of Record 9A which the Ministry has exempted pursuant to section 13(1) of the Act are found on pages 1 and 2 of the document. The information withheld encompasses four options put forward respecting a particular issue and the anticipated results should each option be adopted. The option number favoured by Ministry staff is indicated on page 2 of the document.

I have carefully reviewed the contents of this record and find that the text under Options 1 through 4 and the bullet points respecting the "Probable Outcomes" of each option (excluding the headings themselves) collectively constitute the advice and recommendations of public servants and that the information is properly exempt from disclosure pursuant to section 13(1) of the Act.

As indicated previously, Record 11A is a status report authored by a Ministry employee on proposals to provide bus services in the Peterborough/Port Perry area. The Ministry has

withheld pages 7, 8 and 9 of this document pursuant to section 13(1) of the Act. Pages 7 and 8 contain four options along with possible outcomes should each alternative be adopted. Although these options are similar to those set out on pages 1 and 2 of Record 9A, there is no advice or recommendation provided with respect to the alternative that should be adopted. Page 9 simply lists possible solutions for costs/financing issues without providing any recommendation. In the absence of such a recommended direction, I find that section 13(1) does not apply to these three pages of the record.

Record 54A is a briefing note dated January 8, 1991 concerning Go Transit bus service between Peterborough and Whitby. The Ministry has claimed that section 13(1) applies to the part of the record entitled "Suggested Response" on page 1 of the document and to the information under the headings "Advantages" and "Disadvantages" on page 2. The information withheld from page 1 contains a suggested response to a particular bus service issue, proposed by a public servant. The information withheld from page 2 provides a rationale for the suggested response. I am satisfied that section 13(1) has been properly applied to these portions of Record 54A.

Record 71A consists of two pages of handwritten notes, dated March 18, 1991, which summarize the results of a meeting of the Minister's Policy Committee on the subject of Peterborough/Port Perry bus service. The Ministry has applied the section 13(1) exemption to several parts of the notes. On page 1, one sentence near the top of the page and the remainder of the page below the comment "must have/should have differences" have been withheld. On page 2, the information not disclosed consists of one block containing ten lines of text following the first sentence, and a second block containing 15 lines of text, ending at the lines "GM services may not be required;".

Having reviewed the record, I am not persuaded that the information withheld on page 1 qualifies for exemption under section 13(1) of the Act. While the passages on this page discuss a number of issues, raise potential problems and provide options, there is no advice or recommendation provided on the approach which should be adopted.

On page 2, options are once again raised and comments provided about certain issues. In addition, certain portions of the text refer to decisions which have been reached by senior Ministry officials. Having carefully reviewed the text, however, I have not found any information which could reasonably be characterized as advice or a recommendation. My conclusion, therefore, is that the information withheld by the Ministry does not qualify for exemption under section 13(1) of the Act.

Record 79A consists of briefing materials which the Ministry indicates were prepared for the Premier and the Minister. These notes describe the particulars of a public meeting held on December 12, 1990, which was organized by Ministry staff and which related to Peterborough GO Transit services. In my view, Record 79A was not prepared for the purpose of giving advice or suggesting a course of action which would be accepted or rejected in the deliberative process. Rather, the document explains the reasons why certain Ministry staff were not in

attendance at this meeting. Accordingly, I find that section 13(1) does not apply to Record 79A and that it should be released to the appellant in its entirety.

I will next examine the application of section 13(1) to Records 1B, 2B, 16B, 17B and 19B.

Record 1B consists of further briefing materials on the subject of the expansion of GO Transit rail service. The document sets out a series of possible questions with suggested responses prepared by a public servant for the Minister's consideration. In my view, the section consisting of the three questions and answers on the first page under the heading "LET'S MOVE", as well as the final question and answer on page 5 under the heading "Brantford-VIA Service", are not responsive to the appellant's request.

I have carefully reviewed the balance of record 1B. In my view, the majority of the suggested responses contained in the document simply describe decisions which the Ministry has already made. I also find that the remaining responses cannot be said to provide advice in the sense of giving direction, which may be accepted or rejected, as part of a deliberative process. On this basis, the section 13(1) exemption does not apply to the responses in question. I similarly find that the proposed questions do not qualify for protection under this provision.

Record 16B consists of briefing materials, dated September 26, 1989, which were prepared for the Minister. These notes deal with the subject of certain funding cutbacks by the Federal Government. The Ministry submits that pages 8 through 13 of this record are exempt from disclosure pursuant to section 13(1) of the Act. These pages set out the proposed steps which the Provincial Government will take should an announcement on cutbacks be made.

Based on my review of the file, I have determined that the last half of page 10 of Record 16B as well as pages 11 and 12 in their entirety are not responsive to the request and should not be disclosed. I am also satisfied that the contents of pages 8, 9, 13 and the top half of page 10

provide advice and recommendations to the Minister respecting a particular course of action and, therefore, qualify for exemption under section 13(1) of the Act.

When the non-responsive and exempt portions of Record 16B are brought together, the result is that this document is exempt from disclosure in its entirety.

Record 17B contains additional briefing materials concerning the expansion of GO Transit rail service. The Ministry has withheld one sentence on page 3 of this document pursuant to section 13(1) of the Act. This sentence describes a possible consequence of a particular action. In my view, this particular passage does not contain advice or recommendations and, as a result, does not qualify for exemption under section 13(1) of the Act.

Record 19B consists of a further briefing note prepared for the Minister. The document relates to a media report which suggests that GO Transit rail service will replace VIA rail service. The Ministry has claimed that section 13(1) applies to the final paragraph on page 1 of the record.

I have reviewed this passage and find that it provides the Minister with a recommended course of action in response to a particular scenario. On this basis, I conclude that the exemption has been properly applied to this paragraph.

To summarize, I find that the information found under the headings "Option 1" through "Option 4" (including the bullet points under "Probable Outcome" for each Option) on pages 1 and 2 of Record 9A, parts of pages 1 and 2 of Record 54A under the headings "Suggested Response", "Advantages" and "Disadvantages", pages 8, 9, 13 and the top half of page 10 of Record 16B and the final paragraph on page 1 of Record 19B are all properly exempt from disclosure under section 13(1) of the Act.

Having determined that section 13(1) applies to certain records or parts of records, I have also reviewed the list of mandatory exceptions contained in section 13(2) of the Act and find that none of them apply in the circumstances of this appeal. Since section 13(1) is a discretionary exemption, I have also considered the Ministry's representations regarding its decision to exercise discretion in favour of claiming this exemption and I find nothing improper in the determination which has been made.

ISSUE C: Whether the discretionary exemption provided by section 19 of the Act applies to the records.

In its representations, the Ministry asserts that Records 67A and 69A are exempt from disclosure under both branches of the section 19 exemption and that pages 1 and 2 of Record 13B are exempt under the first branch of the provision.

Section 19 of the Act provides as follows:

A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

This section consists of two branches, which provide a head with the discretion to refuse to disclose:

1. a record that is subject to the common law solicitor-client privilege; (Branch 1) and
2. a record which was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation (Branch 2).

In order for a record to be subject to the common law solicitor-client privilege (Branch 1), the institution must provide evidence that the record satisfies either of the following tests:

1. (a) there is a written or oral communication, **and**
(b) the communication must be of a confidential nature, **and**
(c) the communication must be between a client (or his agent) and a legal advisor, **and**
(d) the communication must be directly related to seeking, formulating or giving legal advice;

OR

2. the record was created or obtained especially for the lawyer's brief for existing or contemplated litigation.

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A record can be exempt under Branch 2 of section 19 regardless of whether the common law criteria relating to Branch 1 are satisfied.

Two criteria must be satisfied in order for a record to qualify for exemption under Branch 2:

1. the record must have been prepared by or for Crown counsel; **and**
2. the record must have been prepared for use in giving legal advice, or in contemplation of litigation, or for use in litigation.

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I will first consider the application of section 19 to Records 67A and 69A.

Record 67A is a memorandum from the Director of Legal Services at the Ministry of Transportation to the Director of Legal Services at the Ministry of Treasury and Economics (now the Ministry of Finance). This memorandum requests that a legal opinion be prepared with respect to a particular issue, the results of which will be provided to senior officials within the Ministry of Transportation. Record 69A consists of the legal opinion which was eventually provided in response to the request.

I have carefully reviewed Record 67A and find that it qualifies for exemption under the first branch of the section 19 test. The document constitutes a written communication of a confidential nature, sent by one Crown counsel on behalf of his clients to another Crown counsel on a particular issue. I am also satisfied that the criteria outlined for the application of the second branch of the section 19 test has been met with respect to Record 69A. This document was prepared by and for Crown counsel for use in providing legal advice. I find, therefore, that both Records 67A and 69A are properly exempt from disclosure in their entirety pursuant to section 19 of the Act.

Pages 1 and 2 of Record 13B contain a legal opinion authored by the Director of Legal Services for the Ministry of Transportation for the Assistant Deputy Minister, Provincial/Municipal Transportation, Ministry of Transportation. The legal opinion deals with the provision of inter-city bus services. Based on the Ministry's representations and the content of the record, I am satisfied that it constitutes a written communication of a confidential nature between a client and a legal advisor, which is directly related to the provision of legal advice. In my opinion, therefore, this document falls within the first branch of the section 19 test and is properly exempt from disclosure.

Section 19 is a discretionary exemption and, on this basis, I have considered the Ministry's representations regarding its decision to rely on this provision. I find nothing improper in the determination which has been made.

ISSUE D: Whether the mandatory exemptions provided by sections 17(1)(a), (b) and (c) of the Act apply to the records.

The Ministry submits that sections 17(1)(a), (b) and (c) of the Act apply to Records 50A, 55A, 67A, 69A, 70A and 12B in their entirety, to parts of Records 2A, 3A, 6A, 9A, 10A, 11A, 43A, 54A, 71A, 73A, 75A and to page 3 of Record 3B. Under Issue A, I found that Record 12B is exempt from disclosure in its entirety under section 12(1) of the Act. Under Issue C, I also concluded that Records 67A and 69A are exempt in their entirety pursuant to section 19 of the Act. As a result, it will not be necessary for me to consider the application of section 17(1) to these three records.

Sections 17(1)(a), (b) and (c) of the Act provide as follows:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency;

For a record to qualify for exemption under section 17(1), the Ministry and/or the relevant affected person must satisfy the requirements of each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the types of harm specified in (a), (b) or (c) of subsection 17(1) will occur.

The failure to satisfy the requirements of any part of the test will render the section 17(1) claim invalid (Order 36).

Part One of the Section 17(1) Test

In order to meet part one of the test, the Ministry and/or the affected person must establish that disclosure of the record would reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information.

In reviewing the records in both appeals to which section 17(1) of the Act has been applied, I find that they all contain financial, commercial and/or labour relations information. Thus, the first part of the section 17 test has been satisfied.

Parts Two and Three of the Section 17(1) Test

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In order to meet part two of the test, the Ministry and/or the affected person must initially establish that the information was **supplied** to the Ministry and then show that it was supplied **in confidence**, implicitly or explicitly. Previous orders issued by the Commissioner's office have determined that information contained in a record would also reveal information "supplied" by an affected person, within the meaning of section 17(1) of the Act, if its disclosure would permit the drawing of accurate inferences with respect to the information actually supplied to the Ministry (Orders P-218, P-219, P-228, and P-241).

In order to meet the requirements of part three of the section 17(1) test, the Ministry and/or the affected person must present detailed and convincing evidence which describes a set of facts and circumstances that would lead to a reasonable expectation that one of the harms listed in section 17(1)(a), (b) or (c) would occur if the information contained in the records were released (Orders 36, 47, 68, 204, P-246, P-249 and P-314).

I will now consider the application of parts two and three of the section 17 test to Records 2A, 3A, 6A, 9A, 10A, 11A, 43A, 50A, 54A, 55A, 70A, 71A, 73A and 75A.

Record 2A consists of a Briefing Note prepared for the Premier regarding bus services in the Peterborough/Port Perry area. The Ministry has withheld paragraph (i) under the heading "Suggested Response" on page 1 of this document and all of page 3 pursuant to section 17(1) of the Act. The Ministry states that the information contained in paragraph (i) was supplied by an affected person implicitly in confidence in response to a request for proposals issued by the Ministry. I have carefully reviewed the record and agree that this information was supplied by an affected person, implicitly in confidence. I also find that its disclosure could reasonably be expected to harm the competitive position of the affected person. Accordingly, I find that paragraph (i) is properly exempt from disclosure under section 17(1)(a) of the Act.

The first sentence on page 3 of Record 2A is statement of fact, which appears to have been supplied by Ministry staff, that compares costs for bus service to those for train service. The third to last paragraph on the page contains a statement, apparently provided by the author of the record, that concerns raised about proposed bus services are being reviewed. The last two paragraphs on the page appear to reveal information supplied by third parties. I have not, however, been provided with any evidence to indicate that the information contained in these two paragraphs was supplied in confidence. Accordingly, I find that these parts of page 3 do not satisfy the second part of the section 17(1) test.

I find, however, that the second paragraph on page 3 and the five numbered paragraphs which follow were supplied by an affected person in confidence. I am also satisfied that the disclosure of this information could reasonably be expected to harm the competitive position of the affected person. I find, therefore, that the information contained in these portions of page 3 are properly exempt from disclosure under section 17(1)(a) of the Act.

Record 3A is a Minister's Briefing Note which relates to a number of meetings which the Minister held with particular interest groups. The Ministry originally relied on section 17 of the Act to withhold parts of pages 2, 3, 4, 5 and 6 from disclosure. Subsequently, the appellant eliminated pages 2 and 3 from the scope of the appeal so that only pages 4, 5 and 6 are now at

issue. These pages are divided vertically into two columns. The left side of the page contains a "Description" column while the right side is made up of the "Comments/Position" column. The Ministry has withheld both columns on page 4 (except for the first paragraph of each column, which was released), the whole of page 5, and the three bullet points in the "Description" column on page 6.

Having reviewed this record, I am satisfied that the heading which describes section 3 in the "Description" column on page 4 would permit the drawing of accurate inferences about information supplied by an affected person in confidence and that its disclosure could reasonably be expected to harm the affected person's competitive position. Accordingly, I find that the heading satisfies parts two and three of the test and is properly exempt under section 17(1)(a).

I find that the information in the second paragraph of the "Description" column on page 4 (the paragraph below the heading which describes section 3) is a statement of fact which does not appear to have been supplied by an affected person and which, therefore, does not meet the second part of the section 17(1) test. Furthermore, the Ministry has already released the same information to the appellant in other documents which were subject to the requests.

I further find that the bullet point which follows this paragraph in the same column would reveal, or permit the drawing of accurate inferences about, information supplied by an affected person implicitly in confidence. Thus, part two of the section 17(1) test has been met. I am not satisfied, however, that disclosure of this information could reasonably be expected to produce any of the harms set out in section 17(1) of the Act. On this basis, I find that the third part of the section 17(1) test has not been met.

It is my view that the remaining portions of the "Description" column on pages 4 and 5 were supplied by an affected person implicitly in confidence and that disclosure of this information could reasonably be expected to harm the affected person's competitive position. I find, therefore, that the remaining portions of the "Description" column on pages 4 and 5 meet parts two and three of the test and are properly exempt under section 17(1)(a) of the Act.

I further find that the "Comments/Positions" column on pages 4 and 5 of Record 3A (except for the first bullet point under the first paragraph on page 5) was not supplied to the Ministry by an affected person. Instead, the information appears to represent a commentary prepared by Ministry staff on various issues. For this reason, the information does not satisfy part two of the section 17(1) test. I find, however, that the first bullet point under the first paragraph of the "Comments/Positions" column on page 5 does contain information supplied in confidence by an affected person and that the disclosure of this information could reasonably be expected to harm the competitive position of the affected person. Therefore, this information is properly exempt under section 17(1) of the Act.

The three bullet points on page 6 in the "Description" column also contain information which was supplied by an affected person in confidence and which, if disclosed, could reasonably be expected to harm the affected person's competitive position. Accordingly, I find that this information is properly exempt under section 17(1)(a) of the Act.

To summarize, therefore, the section 17(1) exemption does not apply to the second paragraph in the "Description" column on page 4 and the bullet point which follows it, nor to the "Comments/Position" column on pages 4 and 5 of Record 3A, with the exception of the first bullet point under the first paragraph on page 5.

Let me now turn to Record 6A. As previously indicated, this document consists of a report in which the Ministry has evaluated a number of proposals submitted by private bus operators. The Ministry has not disclosed parts of pages 10 and 11 of this document pursuant to section 17(1) of the Act. The information withheld on page 10 consists of the names of three companies which made proposals, their relative ranking based on certain evaluative criteria and cost information taken from these proposals. Based on my review of this record, I am satisfied that the cost information was supplied by several affected persons in confidence and that its disclosure could reasonably be expected to harm the competitive positions of these companies. Accordingly, I find that the cost information on page 10 is properly exempt under section 17(1)(a) of the Act. The same considerations do not apply to the names of the companies which supplied this information, and the rankings of these companies, which I order the Ministry to release.

I also find that the heading "(A) Positions of Various Groups", which is found on page 11 of Record 6A, does not qualify for exemption under part two of the section 17(1) test. The information contained in the first paragraph under this heading, however, and the five numbered paragraphs which follow, are identical to the information found in the second paragraph and the following five numbered paragraphs on page 3 of Record 2A. Since I have previously found these passages to be exempt under section 17(1)(a), the same result applies to this record.

The information found in the last three unnumbered paragraphs under the heading "(A) Positions of Various Groups" on page 11 of Record 6A is also identical to the information contained in the last three unnumbered paragraphs of page 3 of Record 2A. Earlier in this order, I determined that the Ministry had not established that this information was supplied by an affected person in confidence and I similarly find that the section 17 test has not been met in the present case.

Record 9A is a status report which evaluates the proposals provided by three private bus operators. The information which the Ministry has withheld under section 17(1) is found on the bottom portion of page 1, following the second paragraph (which is in bold type) and which continues through to the top part of page 2, as well as the last paragraph on page 3, which follows the paragraph entitled "Issue 4: Contract Administration".

I have previously found under Issue B that the information under the headings "Option 1" through "Option 4" (including the bullet points under "Probable Outcome" for each Option), on pages 1 and 2, is exempt from disclosure pursuant to section 13(1) and accordingly is no longer at issue. The information which, therefore, remains to be considered under section 17(1) is the heading on page 1 immediately below the bold type paragraph and the first paragraph below the heading, plus the heading and paragraph withheld on page 3.

With respect to the information on page 1, I am satisfied that the disclosure of these passages would reveal information which was supplied to the Ministry by an affected person in confidence, such that the second part of the section 17(1) test has been met. I am not persuaded, however, that the release of the portion of the heading "Issue 1:", nor the first sentence of the

paragraph which follows, could reasonably be expected to result in the harms set out in section 17(1) of the Act. Because this information does not meet the third part of the test, it should be disclosed to the appellant. I find, however, that the disclosure of the remainder of the heading and the balance of the first paragraph (except the opening sentence) could reasonably be expected to harm the affected person's competitive position and, therefore, qualifies for exemption under section 17(1)(a) of the Act.

The information withheld by the Ministry on page 3 of Record 9A appears to represent an analysis developed by Ministry personnel regarding possible concerns of labour unions should certain decisions about transportation services be made. The Ministry has not provided me with any evidence to indicate the source of the information found on this page of the document. Nor is there evidence before me to show that, even if this information had been provided by an affected person, it was supplied in confidence. Consequently, the heading "Issue 5: Labour Relations" and the paragraph which follows do not qualify for exemption under section 17(1)(a) and should be released to the appellant.

To summarize, only the portion of the heading on page 1 which follows the words "Issue 1:" and the paragraph beneath it, except for the first sentence, are properly exempt from disclosure under section 17(1)(a) of the Act.

Record 10A is a two page chart entitled "Review of Bus Service Proposals". The Ministry has withheld the information contained in the three columns on the right side of page 1 and the four columns on the right side of page 2, including the headings for these columns, pursuant to section 17(1) of the Act. Having examined the contents of this record, I am satisfied that the information withheld by the Ministry, except for the column headings, was supplied by affected persons implicitly in confidence, and that its release could reasonably be expected to harm the competitive position of these companies. On this basis, the information is properly exempt from disclosure under section 17(1)(a) of the Act.

Record 11A is a status report concerning bus service in the Peterborough/Port Perry area. The Ministry has withheld portions of pages 4, 6, 7, 8, 11 and 13 under section 17(1) of the Act. Subsequently, pages 6 and 13 were eliminated from the appeal by the appellant. This means that

only the other four pages need be considered for the purposes of this appeal. On page 4 of the record, the Ministry decided not to release the first bullet point heading and the three paragraphs which follow. I find that the bullet point is a statement of fact, not supplied by an affected person, which merely indicates that all parties invited to submit proposals responded. The same information is also revealed on page 2 of Record 2A which was previously released to the appellant.

The third paragraph under the bullet point sets out a rough estimate of the costs of providing certain transportation services without specifying if the figure is related to a particular proposal or whether it is a general statement applicable to all of the proposals. The same paragraph also provides an estimate of subsidies required to maintain the services based on the cost approximations. Significantly, the amount of the subsidies is also revealed on page 2 of Record 2A which, as I have previously indicated, was disclosed to the appellant. Based on these considerations, I am satisfied that neither the bullet point heading nor the third paragraph contain

information supplied by an affected person in confidence, nor that the disclosure of these passages would reveal such information or permit the drawing of accurate inferences about the information supplied.

In my view, however, the first and second paragraphs under the bullet point would reveal information supplied by an affected person implicitly in confidence. In addition, I am satisfied that the disclosure of this information could reasonably be expected to harm the competitive position of the affected person. Since this information meets all three parts of the section 17(1) (a) test, it is properly exempt from disclosure under this provision.

The contents of pages 7 and 8 of Record 11A, which were withheld by the Ministry in their entirety, relate to one of the proposals received by the Ministry. These pages set out several possible responses which the Ministry could adopt respecting the issues raised in that proposal. A total of four options are referred to along with bullet points which describe the possible outcomes associated with each alternative.

Following a review of the record, I have determined that the heading for the second option listed on page 7, as well as the first and fourth bullet points which follow, satisfy both the second and third parts of the section 17(1) test. On this basis, the information is properly exempt from disclosure under section 17(1)(a) of the Act.

With respect to the remainder of the materials on page 7 (including the page heading), I have not been provided with any evidence to show that the information was supplied to the Ministry by an affected person in confidence. On this basis, the information does not qualify for exemption under section 17(1). In my view, however, the second and third bullet points on page 8 under the heading of the third option satisfy both parts two and three of the test and are properly exempt from disclosure pursuant to section 17(1)(a) of the Act. The remainder of the page, including the page heading, does not meet part two of the test and should be disclosed to the appellant.

The bottom half of page 11 of Record 11A, under the heading "Labour Relations", contains a number of views about the reaction of certain labour groups to possible decisions taken by the Ministry. There is no evidence before me, however, that this information was supplied by a third party. Rather, the inference is that the document was prepared by Ministry personnel. On this basis, I find that the information does not meet the second part of the section 17(1) test and should, therefore, be released to the appellant.

To summarize, I find that parts two and three of the section 17(1) test have been met for the first two paragraphs under the first bullet point heading on page 4, the heading plus the first and fourth bullet points for the second numbered option on page 7, and the second and third bullet points under the third option on page 8. This information is properly exempt from disclosure under section 17(1)(a) of the Act.

Record 43A consists of charts whose contents evaluate several bus service proposals which the Ministry received. Only pages 6, 7, 8, 9 and 15 remain at issue in this appeal. The Ministry has previously disclosed the first three columns on the left side of each page, including the headings for each column and line of the chart. The Ministry has, however, withheld the headings and contents of the right hand columns of each page under section 17(1). In its representations, the

Ministry states that the information at issue was supplied by affected persons implicitly in confidence and that the release of this information could lead to the harms set out in sections 17(1)(a), (b) and (c) of the Act.

Based on my review of this record, I accept that the disclosure of the information withheld on these pages, except for the column headings at the top of each page and the total score figures on pages 6 and 15, would reveal information supplied by affected persons in confidence. I am also satisfied that the release of this information could reasonably be expected to harm the competitive positions of the affected persons. On this basis, I find that pages 6, 7, 8, 9 and 15 (except for the column headings and total score figures) are properly exempt from disclosure under section 17(1)(a) of the Act.

Record 50A is a one page handwritten note, dated January 6, 1991, which relates to a meeting involving Ministry personnel and representatives of a particular bus company. The Ministry has applied the section 17(1) exemption to the entire page on the basis that the disclosure of the record would reveal information supplied by an affected person explicitly in confidence and that the release of the information would cause harm to the competitive position of the affected person. I have carefully considered the record and find that its contents are exempt from disclosure, in their entirety, under section 17(1) of the Act.

Record 54A has been previously described under Issue B, where I found that the "Suggested Response" portion of page 1 and all of page 2 were exempt under section 13(1) of the Act. The portion of the record which remains to be considered is the first paragraph on page 1, which describes a particular issue. I have reviewed this paragraph and find that its disclosure would reveal information supplied by an affected person in confidence and that its release could

reasonably be expected to result in harm to the affected person's competitive position. On this basis, the information qualifies for exemption under section 17(1)(a) of the Act. I would point out that the combined effect of the exemptions under sections 13(1) and 17(1)(a), is that Record 54A is exempt from disclosure in its entirety.

Record 55A is a discussion paper which provides background information on proposed bus service to the Peterborough/Whitby areas. The Ministry has also applied section 17(1) to exempt this record in its entirety. I have carefully reviewed the record and I agree that the information is properly exempt under section 17(1)(a) of the Act.

Record 70A consists of three pages of handwritten notes which have been previously described under Issue A. The Ministry has applied section 17(1) to exempt the entire record from disclosure. Following a review of this record, I find that the information contained on page 1 (except for the date, the heading and the first sentence), together with the first five lines of text on page 2, are properly exempt under section 17(1)(a) of the Act. The remaining portions of pages 1 and 2 and the information on page 3 of the record contain a broader discussion of issues concerning the motor coach industry, the industry trade association and long-term policy and planning for the transportation sector. I have carefully reviewed the record and find that this information was not supplied to the Ministry by an affected person, in confidence. On this basis the second part of the section 17(1) test has not been met and these portions of the record should be released to the appellant.

Record 71A consists of two pages of notes, which have previously been described in this order, which summarize a meeting of the Minister's Policy Committee. The Ministry has claimed that the section 17 exemption applies to certain blocks of text for which the section 13 exemption was also applied. I find that the one sentence withheld near the top of page 1 and the block of text following the sentence "must have/should have differences" (except for the two sentences which I have highlighted), were not supplied by an affected person. On this basis, the information does not qualify for exemption under section 17(1) of the Act. I am also not satisfied that, if this information was disclosed, any of the harms listed in section 17(1) could reasonably be expected to materialize. Accordingly, I find that the information withheld on page 1 of the record (except for the two highlighted sentences, which meet both parts of the test), should be disclosed to the appellant.

I also find that the information withheld in the first block of text on the top half of page 2 fails to satisfy part two of the section 17(1) test. The comments here reflect a discussion of possible approaches to resolving an issue and do not constitute information supplied by an affected person in confidence, nor would their disclosure reveal, or permit the drawing of accurate inferences about, such third party information. The second block of text withheld by the Ministry on page 2 involves decisions which appear to have been made by senior Ministry personnel and does not include information supplied by affected persons. On this basis, I find that none of the information withheld on page 2 of Record 71A qualifies for exemption under section 17(1) of the Act.

As previously indicated, Record 73A consists of notes of a meeting involving the Minister and Go Transit personnel. The Ministry has claimed that section 17(1) applies to the first two point form notes on page 1 and to the last three point form notes on page 4. Following a review of the record, I am satisfied that the information in question on page 1 satisfies both parts two and three of the section 17(1) test.

The information contained in the point form notes on page 4 appears to reflect a decision made by the Government concerning specific bus routes. These materials were not supplied by an affected person which means that the information does not qualify for exemption under section 17(1) of the Act.

To summarize, only the two point form notes on page 1 of Record 73A are exempt from disclosure under section 17(1)(a) of the Act.

As previously indicated, Record 75A consists of four pages of notes of meetings involving Ministry personnel. The Ministry has claimed that section 17(1) applies to pages 2, 3 and 4 of this document. These notes primarily constitute check lists of actions to be taken, or options to be considered, by the Government. With the exception of one sentence on page 2 and four sentences on page 4 of the record, which I have highlighted, I am not satisfied that the information on pages 2, 3 and 4 was supplied to the Ministry by an affected person in confidence, nor that its disclosure would permit the drawing of accurate inferences about information actually supplied to the Ministry. As this information does not meet part two of the section 17(1) test, it should be disclosed.

I am, however, persuaded that the release of the highlighted portions of pages 2 and 4 would reveal information supplied by an affected person and that such disclosure could reasonably be expected to harm the affected person's competitive position. Therefore, the highlighted information on pages 2 and 4 is properly exempt from disclosure under section 17(1)(a) of the Act.

I will now consider the application of parts two and three of the section 17(1) test to Record 3B, which is a ridership and profitability report concerning commuter rail service. The only part of the record at issue is found on page 3, where particular bus routes and the services offered by certain bus companies are discussed. The Ministry has applied section 17(1) of the Act to exempt the fourth paragraph on page 3, the subsequent listing of bus routes and the operators which service these routes, and the final sentence on page 3. I find, as an initial matter, that the references to the first three bus routes and the final sentence on page 3 are not responsive to the request and need not be considered for the purposes of these appeals. With respect to the remaining routes, it is my view that the release of information which simply indicates that a bus company provides service on a particular route would not harm the bus company's competitive position for the purposes of the third part of the section 17(1) test.

I am, however, satisfied that the disclosure of the first two lines of the fourth paragraph satisfies both parts 2 and 3 of the section 17(1) test and that this information is, therefore, exempt from disclosure.

To summarize, I have found that the section 17(1) exemption applies to portions of the following records: pages 1 and 3 of Record 2A, pages 4, 5 and 6 of Record 3A, pages 10 and 11 of Record 6A, page 1 of Record 9A, Record 10A, pages 4, 7 and 8 of Record 11A, pages 6, 7, 8, 9 and 15 of Record 43A, page 1 of Record 54A, pages 1 and 2 of Record 70A, page 1 of Record 71A, page 1 of Record 73A, pages 2 and 4 of Record 75A, and page 3 of Record 3B. Section 17(1) also applies to exempt Records 50A and 55A in their entirety.

ISSUE E: Whether the discretionary exemptions provided by sections 18(1)(c) and (d) of the Act apply to the records.

The Ministry has applied sections 18(1)(c) and (d) of the Act to Record 12B in its entirety and section 18(1)(d) to the sentence withheld on page 3 of Record 17B. Under Issue A, I found that Record 12B is exempt from disclosure under section 12(1) of the Act. Consequently, I need not consider this record for the purpose of the present analysis. My review will, therefore, be restricted to Record 17B.

Section 18(1)(d) of the Act states that:

A head may refuse to disclose a record that contains,

information where the disclosure could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario;

[IPC Order P-529/September 3, 1993]

Section 18 is designed to protect certain economic interests of the Government of Ontario and/or institutions covered by the Act. In order to qualify for exemption under section 18(1)(d), an institution must provide detailed and convincing evidence that disclosure of the information could reasonably be expected to be injurious to the financial interests of the Government of Ontario, or to its ability to manage the provincial economy. In addition, the basis for such an expectation must be reasonable.

As indicated previously, Record 17B contains briefing materials concerning the expansion of Go Transit rail service. In reviewing the representations, I find that the Ministry has failed to provide detailed and convincing evidence to establish that the harm contemplated by section 18(1)(d) could reasonably be expected to occur if these materials were disclosed. On this basis, I find that section 18(1)(d) does not apply to Record 17B and, therefore, that the information should be disclosed to the appellant.

For the sake of simplicity, I will be enclosing highlighted copies of a number of the records at issue in this appeal with the copy of the order which will be provided to the Ministry. These records will be the ones where I have found that exemptions apply to part of the information contained in the documents only. I have identified the portions of the records which are exempt from disclosure under sections 12(1), 13(1) and 17(1) in yellow, blue and pink, respectively. Where portions of a record are not responsive to the request, these passages have been highlighted in orange. Records which are entirely exempt from disclosure and records or parts of records which should be disclosed have not been highlighted.

ORDER:

1. I uphold the Ministry's decision not to disclose Records 50A, 54A, 55A, 67A, 69A, 74A, 2B, 5B, 12B, 13B, 16B and 18B.
2. I order the Ministry to disclose to the appellant Records 2A, 3A, 6A, 9A, 10A, 11A, 43A, 70A, 71A, 73A, 75A, 79A, 1B, 3B, 17B and 19B, in accordance with the highlighted copies of the records provided to the Ministry with this Order. The highlighted portions identify the parts of the records which should **not** be disclosed.
3. I order that the records identified in provision 2 be released to the appellant within 35 days of the date of this Order, and not earlier than the thirtieth (30th) day after the date of this Order.
4. In order to verify compliance with the provisions of this Order, I order the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to provision 2, **only** upon my request.
5. In the event that the Ministry has any questions respecting the portions of the records which should be disclosed, I may be approached for further direction.

Original signed by: _____

Irwin Glasberg
Assistant Commissioner

_____ September 3, 1993

APPENDIX A RECORDS AT ISSUE

RECORD NUMBER	DESCRIPTION	EXEMPTIONS CLAIMED
Record 2A pages 1 and 3	Premier's briefing note dated March 12, 1991 respecting Peterborough/Port Perry bus service.	Sections 17(1)(a),(b) and (c)
Record 3A pages 4, 5 and 6	Minister's briefing note dated January 4, 1991.	Sections 17(1)(a),(b) and (c)
Record 6A pages 4, 10 and 11	Evaluation of proposals for bus service dated March 1, 1991.	Sections 13(1) and 17(1)(a), (b) and (c)
Record 9A pages 1, 2 and 3	Status Report respecting Peterborough/Port Perry bus service (undated).	Sections 13(1) and 17(1)(a), (b) and (c)
Record 10A	Review of proposals respecting bus service (undated).	Sections 17(1)(a),(b) and (c)
Record 11A pages 4, 7, 8, 9 and 11	Status report dated January 22, 1991 respecting Peterborough/Port Perry bus services.	Sections 12(1), 13(1) and 17(1)(a),(b) and(c)
Record 43A pages 6, 7, 8, 9 and 15	Evaluation of business proposals (undated).	Sections 17(1)(a),(b) and (c)
Record 50A	Notes dated January 6, 1991 respecting a named company.	Sections 17(1)(a),(b) and (c)
Record 54A	Briefing note dated January 8, 1991.	Sections 13(1) and 17(1)(a),

		(b) and (c)
Record 55A	Background paper (undated).	Sections 17(1)(a),(b) and (c)
Record 67A	Solicitor's memorandum dated January 8, 1991.	Sections 17(1)(a), (b) and (c) and 19
Record 69A	Solicitor's memorandum dated January 15, 1991.	Sections 17(1)(a),(b) and (c) and 19
Record 70A	Notes dated January 8, 1991 respecting a meeting between the Minister and a named company.	Sections 12(1), 17(1)(a),(b) and (c)
Record 71A	Notes dated March 18, 1991 respecting a meeting of the Minister's Policy Committee.	Sections 13(1) and 17(1)(a),(b) and (c)
Record 73A pages 1 and 4	Notes of a Ministry and Go Transit meeting dated February 15, 1991.	Sections 12(1) and 17(1)(a),(b) and (c)
Record 74A	Cabinet Submission and minutes dated November 6, 1990.	Section 12(1)
Record 75A pages 2,3,4	Notes related to a Cabinet record dated January 15, 1991.	Sections 12(1) and 17(1)(a), (b) and (c)
Record 79A	Minister's briefing materials respecting a December 12, 1990 meeting.	Section 13(1)
Record 1B	Minister's briefing materials - questions and answers respecting rail service expansion dated November 25, 1990.	Section 13(1)

Record 2B	Cabinet document dated November 1990.	Sections 12(1)(b) and (e)
Record 3B page 3	Report regarding Via Rail service dated June 1990.	Sections 17(1)(a),(b) and (c)
Record 5B	Report to Cabinet dated July 1990.	Section 12(1)(b)
Record 12B	Minister's briefing materials on passenger rail service between Toronto/Peterborough dated October 5, 1990.	Sections 12(1)(e), 13(1), 17(1)(a),(b) and (c) and 18(1)(c) and (d)
Record 13B page 1 and 2	Solicitor's opinion dated December 4, 1990.	Section 19
Record 16B pages 8-13	Briefing paper respecting cutbacks dated September 26, 1989.	Section 13(1)
Record 17B page 3	Minister's briefing materials respecting GO Transit rail expansion dated August 10, 1990.	Sections 13(1) and 18(1)(d)
Record 18B	Minister's briefing materials dated March 27, 1990.	Sections 12(1)(b) and (e)
Record 19B page 1	Briefing note entitled Go Rail Replaces Via Rail dated September 28, 1989.	Section 13(1)