



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER PO-2258

Appeal PA-020287-3

Assessment Review Board



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BACKGROUND:

The requester in this case is an individual who has been engaged in proceedings before the Assessment Review Board (the Board) for several years. He has had a number of disputes with the Board about the information contained in its records pertaining to him. As a result he has made requests under the *Freedom of Information and Protection of Privacy Act* (the *Act*) and then filed appeals with this office asking that information be corrected.

NATURE OF THIS APPEAL:

In the request at issue in this appeal, he asked the Board to correct information contained in a specific written decision of the Board as provided for in section 47(2)(a) of the *Act*. In particular, he wanted the Board to correct a reference in that decision to the reason for which an adjournment had been granted in June 1999. The Board refused to make the correction and instead informed him that he could submit his concerns in a letter that would then be included in the Board's file.

The requester (now the appellant) appealed that decision. During the course of mediation of the appeal, the appellant indicated that he would like that the adjournment record itself be corrected to indicate that the reason for the adjournment in June 1999 was for him to obtain an impact study.

The issues for my determination are two:

1. Is the information the appellant wants corrected his personal information?
2. Should the personal information be corrected?

ISSUES

Is the information the appellant wants corrected his personal information?

The actual information the appellant wants corrected is the *reason* for which he was granted an adjournment of his hearing in June 1999. This information appears in two records: the adjournment record itself and the Board's written decision. Wherever it appears, the information is the personal information of the appellant.

The reason for which the appellant was granted an adjournment of his hearing qualifies as his personal information because it is recorded information about the appellant and his statements to the Board during the course of one of his hearings.

Should the personal information be corrected?

Sections 47(2)(a) and (b) of the *Act* provide for correction requests and statements of disagreement relating to one's own personal information. These sections state:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made . . .

Generally, personal information should be corrected where all of these three requirements are met:

1. The information at issue must be personal and private information.
2. The information must be inexact, incomplete or ambiguous.
3. The correction cannot be a substitution of opinion.

Section 47(2)(a) states, however, that an individual can *request*, rather than require, a correction to their personal information. As a result, there is recognition in more recent orders that even where the requirements are met, there are circumstances where a correction need not be ordered:

...In order for a correction to be found appropriate, at a minimum, the requirements established by Order 186 must be met. However, there may well be situations where it is not necessary to make a conclusive determination on whether information is “inexact, incomplete or ambiguous”, where the exercise of discretion appears reasonable, and the attachment of a statement of disagreement is a sufficient response to a dispute about the correctness of a record.

[See Orders PO-2079, MO-1594]

In my view, a correction should be ordered in this case but only in the adjournment record and not in the Board’s written decision.

Should the information in the written reasons be corrected?

While it is clear that the reason for adjournment is incorrectly noted in the Board’s written decision, it is not for this office to engage in the review of the adequacy or correctness of the decisions or findings of fact of a decision-making entity such as the Board. The decisions of the Board are subject to review for errors of fact and law before other bodies. (See Order PO-2079 where this principle is explored.)

Should the information in the adjournment record be corrected?

While the same information in the written decision should not be corrected, a correction to the information in the adjournment record is warranted for several reasons. First, it is clear to me that the three requirements noted above are met. Further, this is a case where a correction is warranted if only because the Board had already agreed to correct the information. Here an elaboration of the facts is necessary.

In June 1999, the appellant appeared before the Board. His case was adjourned. The adjournment record (a copy of which is before me) indicated that the reasons for granting the adjournment were, "complainant requested time to meet with Assessment Commissioner". The appellant must have become aware of this notation and complained to the Board. While I do not have a copy of his complaint/request for amendment before me, I do have a letter dated October 20, 1999 from the Board to the appellant indicating that, further to his letter to them, the Board "ha[s] amended the adjournment record to indicate that you need time to obtain the Impact Study." Clearly, the Board agreed that the information was inexact, hence its decision to amend the adjournment record.

It appears that the only reason that this appeal has even proceeded this far is that the Board failed to amend the adjournment record as it agreed it would. I draw this inference from the fact that the Member incorrectly stated the reason for adjournment in the written reasons. Presumably, the Member would have noted the correct reason for adjournment had the Member had before them an amended adjournment record.

By this order, I am simply requiring the Board to do that which it recognized it should do.

ORDER:

1. I order the Board to correct the adjournment record so that the reason for adjournment reads, "the complainant needs time to obtain an Impact Study" by **April 20, 2004**.
2. I order the Board to provide me with a copy of the amended adjournment record so that I may verify that the correction has been made.

Original signed by: _____
Rosemary Muzzi
Adjudicator

_____ March 31, 2004