

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Goldie v. Kings (County)*, 2022 NSSC 343

**Date:** 20221207

**Docket:** *Kentville*, No. 482489

**Registry:** Halifax

**Between:**

Margaret Ann Goldie, Brian Thomas Goldie, Central Valley Aircraft Incorporated,  
Greenwood Flight Centre and GFC Aircraft Maintenance

*Appellants*

v.

Municipality of the County of Kings

*Respondent*

**Judge:** The Honourable Justice Gail L. Gatchalian

**Heard:** October 24, 25, and 26, 2022, in Kentville, Nova Scotia

**Counsel:** Margaret Goldie, for the Appellants  
Peter Nathanson and Hope Bell, for the Respondents

**By the Court:**

**Introduction**

[1] This is an appeal under the access to information provisions of the *Municipal Government Act*, S.N.S. 1998, c.18. The Appellants claim that the respondent Municipality has improperly withheld numerous records from them. The Municipality says that the records do not exist. The question is whether the Appellants have established, with some evidence, a reasonable basis to conclude that the records exist: see *Raymond v. Halifax Regional Municipality*, 2022 NSSC 6 at paras.25-26 and 36-37. If the Appellants meet this burden, I must then determine whether the Municipality has fulfilled its duty to make every reasonable effort to locate the records: see *Raymond, supra* at para.27.

[2] The Appellants have also filed a contempt motion against the Municipality, citing a number of grounds. The issues in the contempt motion are: (a) whether the Appellants gave the Municipality clear, precise and unambiguous notice of the specific contempt offences; (b) whether the Appellants have established beyond a reasonable doubt that the terms of the relevant order were clear and unambiguous; and (c) whether the Appellants have established beyond a reasonable doubt that the

Municipality intentionally committed an act that is in fact prohibited by the terms of an order.

## **Background**

[3] The Appellants are Margaret Ann Goldie, Brian Thomas Goldie, Central Valley Aircraft Incorporated, Greenwood Flight Centre and GFC Aircraft Maintenance (“the Goldies”). Ms. Goldie and Mr. Goldie are the sole owners and directors of Central Valley Aircraft Incorporated, carrying on business as Greenwood Flight Centre and GFC Aircraft Maintenance. Ms. Goldie and Mr. Goldie operated their business out of the Kings County Municipal Airport.

[4] The Airport land was owned by the Respondent, the Municipality of the County of Kings (“the Municipality”). The Municipality decided to close and relocate the Airport and to create the Cambridge Business Park on the former Airport land. The Goldies were required to vacate their leased premises.

[5] The Goldies filed several access to information requests with the Municipality, requesting records related to the Municipality’s decision to close the Airport and create the business park. This appeal concerns two of those requests: File 18-00123 and File 18-00067, both submitted in late 2017.

[6] Under s.467(1)(a) of the *Act*, the Municipality was required to make every reasonable effort to assist the Goldies and to respond without delay to their requests, openly, accurately and completely. Under s.467(2) of the *Act*, the Municipality was required to respond in writing to the Goldies within thirty days after receiving their access to information requests, stating whether they were entitled to the records. The Municipality failed to meet this statutory deadline and was therefore deemed to have refused access to the requested records under s.488(2) of the *Act*. The Goldies requested a review of the deemed refusal, pursuant to s.488(1) of the *Act*.

[7] The Review Officer was Catherine Tully, Information and Privacy Commissioner. In her report, Ms. Tully found that the Municipality had breached the *Act* by failing to respond to the Goldies' requests within the statutory time limit. Ms. Tully found it troubling that the Municipality had failed to respond to the requests and continued to be in violation of the law 11 months after the original requests were made. In Ms. Tully's view, the actions of the Municipality suggested that its officials failed to appreciate the importance of the access rights granted under the *Act*. She also found that the Municipality had failed to devote sufficient resources to fulfill its duty under s.467(1)(a) of the *Act* to respond to the requests

without delay, openly, accurately and completely. Ms. Tully recommended that the Municipality respond within 10 days of receipt of her report.

[8] Under s.493(1) of the *Act*, the Municipality was required to make a decision within thirty days following receipt of the Review Officer's report. The Municipality did not meet this statutory deadline either. The Municipality was therefore deemed to have refused to follow the Review Officer's recommendation under s.493(3) of the *Act*.

[9] On November 19, 2018, approximately one year after they first filed the access to information requests, and having received no response from the Municipality to those requests, the Goldies appealed the deemed refusal to this Court under s.494(1) of the *Act*.

[10] On an appeal, the Court may determine the matter *de novo*, and examine any record *in camera* to determine whether information in the record may be withheld under the provisions of the *Act*: s.495(1). If the Court determines that the Municipality is not authorized to refuse to give access to a record or part of it, the Court must order the Municipality to give the Goldies access to the record, or part of it, subject to conditions the Court considers appropriate, or make any other order the Court considers appropriate: s.495(5) of the *Act*.

[11] After the Goldies appealed, and over the four years since the appeal was filed, the Municipality has disclosed thousands of pages of records to the Goldies. Three *in camera* appearances took place before the Honourable Justice Gregory M. Warner, now retired, to review redactions proposed by the Municipality.

[12] Warner J. issued four Orders in this matter:

1. an Order dated April 2, 2019, ordering the disclosure of records with only those redactions that were approved by Warner J. during an *in camera* appearance on February 14, 2019;
2. an Order dated October 28, 2020, prohibiting the Municipality from destroying records until further order of the Court or the conclusion of the appeal, requiring that the Municipality provide the Goldies with documents in a readable format and requiring the Municipality to provide the Court and the Goldies with a report of the status of eleven issues identified by the Goldies;
3. an Order dated November 10, 2021, ordering the disclosure of further records, in chronological order, with only those redactions that were approved by Warner J. during an *in camera* appearance on February 18, 2020; and
4. an Order dated December 22, 2021, ordering the disclosure of further records, subject to redactions that were approved by Warner J. during an *in camera* appearance on June 2, 2021.

[13] The parties also appeared before Warner J. on February 1, 2021 to address the Goldies' argument that the Municipality had failed to disclose all records responsive to File 18-00123. On or about December 19, 2017, an employee of the Municipality told the Goldies that she had found 8100 instances of the search terms used to search for the documents requested by the Goldies in File 18-00123. In January of 2019, after the Notice of Appeal was filed, the Municipality disclosed

seven binders of documents to the Goldies in response to File 18-00123. The Goldies counted the search terms in the documents and only found approximately 3,000 instances of the search terms. The Goldies therefore believe that documents are missing from the Municipality's response to File 18-00123.

[14] At the February 1, 2021 hearing, the Municipality relied on affidavits from three witnesses. Ms. Goldie cross-examined the Municipality's witnesses. The Municipality cross-examined Ms. Goldie. The parties were to file written submissions and appear again on March 23, 2021. As a result of further issues raised by the Goldies on March 23, 2021, Warner J. adjourned the hearing, and scheduled an *in camera* hearing to deal with redactions issues.

[15] In the meantime, on May 13, 2021, the Goldies filed a motion for a contempt order against the Municipality under Civil Procedure Rule 89. The focus then shifted to scheduling the hearing of the contempt motion.

[16] During the initial motion for directions to schedule the contempt motion, I also scheduled the final hearing of the appeal. The matters were originally scheduled to be heard by me in November of 2021. The Goldies filed affidavit evidence from Ms. Goldie. The Municipality filed an affidavit from Mr. Cuming and an affidavit from Lyndsay Cuvilier, an associate working with Mr. Cuming.

The hearing dates were adjourned to address whether counsel Mr. Cuming could continue to act as solicitor of record as well as be a witness at the hearings. In a decision dated December 15, 2021, I disqualified Mr. Cuming as solicitor of record: 2021 NSSC 342.

[17] The Municipality retained new counsel. The contempt motion was heard on October 24 and 25, 2022, and the appeal was heard on October 26, 2022. Ms. Goldie represented the Appellants. At the contempt hearing, the Municipality cross-examined Ms. Goldie. Ms. Goldie cross-examined Mr. Cuming and Ms. Cuvilier. At the appeal hearing, the Municipality cross-examined Ms. Goldie. Ms. Goldie cross-examined Mr. Cuming. The parties agreed that the evidence in one hearing could be used as evidence in the other hearing.

### **The Appeal – Withheld Records?**

[18] The Goldies' factum does not identify the specific records that they say are being withheld by the Municipality: see paragraphs 22-26 of the Goldies' Factum.

[19] During the hearing of the contempt motion, in response to questions from me, Ms. Goldie stated that they were seeking disclosure of the following specific documents in the appeal, concerning land formerly occupied by the Airport:

1. a lease agreement between the Municipality and Graham Baxter,



2. agreements with Bill Young of BW Investments,
3. a May, 2014 agreement granting hanger owners the right to transfer their right to purchase land, and
4. confidentiality agreements that future purchasers of land would have to sign.

[20] During the contempt hearing, it became clear that the Goldies were also seeking the following:

1. The Goldies say that the Municipality has not yet provided them with records for the years 2012 and 2013 in File 18-00123 that remove the redactions not approved by Warner J. during the February 18, 2020 *in camera* appearance, as required by the Order dated November 10, 2021.
2. The Goldies say that there are documents missing from the Municipality's response to File 18-00123 because an employee of the Municipality initially said that she found "8100 hits" using the Goldies' search terms, whereas the documents disclosed to the Goldies only contain approximately 3,000 hits.
3. The Goldies say that the Municipality only searched for emails in response to File 18-00123.

[21] During closing argument in the appeal hearing, Ms. Goldie stated that the Goldies were also seeking disclosure of the following documents, although she said that she was not able to list them all:

1. documents explaining why the Goldies' pre-authorized tax payments were cancelled,
2. documents explaining why the Goldies' water service was turned off, and
3. documents explaining why the Goldies were not mentioned in a consultant's report.

[22] The Goldies say that the burden is on the Municipality to justify the non-disclosure of the documents they seek. The Goldies rely on s.498(1) of the *Act*, which states that “[at an] appeal into a decision to refuse an applicant access to all or part of a record, the burden is on the responsible officer to prove that the applicant has no right of access to the record or part.” However, the Municipality has not refused to grant the Goldies access to any records (apart from the redactions approved by Warner J.). The Municipality says that the records sought by the Goldies do not exist.

[23] The Goldies must therefore first establish that there is a reasonable basis for concluding that these records actually exist. It is not enough for them to believe that a record exists, or to merely assert that it does. They must provide some evidence to show that the Municipality has the record in its custody or under its control. See *Raymond, supra* at paras. 25-26 and 36-37

***A Lease Agreement between the Municipality and Mr. Baxter of BW Investments***

[24] In cross-examination, Mr. Cuming testified that, to the best of his knowledge, and according to what the Municipality told him, no lease agreement between the Municipality and Mr. Baxter of BW Investments exists.

[25] In her oral argument at the appeal hearing, I asked Ms. Goldie where, in the evidence, the Goldies have attempted to establish the existence of such a lease agreement. Ms. Goldie responded that they did so her during her oral argument before Warner J. on March 23, 2021.

[26] The Goldies have not discharged the burden on them of providing a reasonable basis to believe that such a lease agreement exists.

***An Agreement between the Municipality and Bill Young of BW Investments***

[27] In cross-examination, Mr. Cuming testified that he was not aware of any agreement between the Municipality and Bill Young of BW Investments regarding the tearing down of the latter's hanger.

[28] In her oral argument at the appeal hearing, I asked Ms. Goldie where, in the evidence, the Goldies have attempted to establish the existence of such an agreement. Ms. Goldie responded that they did so her in oral argument before Warner J. on March 23, 2021.

[29] The Goldies have not discharged the burden on them of providing a reasonable basis to believe that an agreement between the Municipality and Mr. Young of BW Investments exists.

***A May, 2014 Agreement Granting Hanger Owners the Right to Transfer their Right to Purchase Land***

[30] The Goldies believe that there is a Memorandum of Agreement between the Municipality and several other parties executed in May of 2014 that grants hanger owners the right to transfer their right to purchase land.

[31] The Goldies point to two Notices of Assignment, copies of which they received in response to an access to information request that is not the subject of this appeal. One Notice of Assignment refers to a Memorandum of Agreement between the Municipality and “Squires Square Inc. et al. executed in May of 2014.” The other Notice of Assignment refers to a Memorandum of Agreement between the Municipality and “Goddard et al.” executed in May of 2014. It is on this basis that the Goldies believe that there is a Memorandum of Agreement signed in May of 2014, and that the Municipality has improperly withheld a copy of that agreement from them.

[32] However, Mr. Cuming’s evidence on cross-examination on this point was uncontradicted, and I accept it:

- Mr. Cuming was at the meeting at which the Memorandum of Agreement, referred to in the Notices of Assignment, was executed.
- The Memorandum of Agreement was not executed in May of 2014.
- The reference in the Notices of Assignment to the Memorandum of Agreement having been executed in May of 2014 is an error.

- He could not recall the exact date that the Memorandum of Agreement was executed, but he believes it was executed in the fall of 2014.
- There is only one such Memorandum of Agreement.

[33] In response to a question from me in oral argument, Ms. Goldie acknowledged that the Municipality had provided the Goldies with a copy of a Memorandum of Agreement between the Municipality and other parties executed on a date other than in May of 2014. However, Ms. Goldie stated that she believes that there is another Memorandum of Agreement between the Municipality and these parties executed in May of 2014. Essentially, the Goldies believe that the Municipality is being dishonest when it says that there is only such Memorandum of Agreement and that it was not executed in May of 2014.

[34] In light of the uncontradicted evidence of Mr. Cuming, the Goldies have not discharged the burden on them to provide a reasonable basis to believe that a May, 2014 Memorandum of Agreement exists.

### ***Confidentiality Agreements***

[35] The Goldies again point to Ms. Goldies' oral argument of March 23, 2021 to establish a reasonable basis to believe that the confidentiality agreements that they seek exist. This is not sufficient to discharge their burden.

### ***Records for Years 2012 and 2013 in File 18-00123***

[36] The Municipality does not dispute that it has yet to provide the Goldies with appropriately redacted records for the years 2012 and 2013 in File 18-00123.

[37] The background to this issue is as follows.

[38] Before the February 18, 2020 *in camera* appearance, the Municipality provided the Goldies with a version of the records that contained the Municipality's proposed redactions. Those records were organized alphabetically within each calendar year.

[39] During the February 18, 2020 appearance, Warner J. reviewed the alphabetically-organized records and adjudicated the Municipality's proposed redactions to those records. Warner J. directed the Municipality to provide the Goldies with the appropriately-redacted records in chronological format.

[40] This required Mr. Cuming, and his associate, Ms. Cuvilier, to cross-reference the alphabetical records with the chronological records, a process that took some time.

[41] Mr. Cuming and Ms. Cuvilier also prepared a "Table of Concordance" between the redactions in the alphabetically-organized records and the redactions in the chronologically-organized records. During this process, Ms. Cuvilier noticed

that some redactions that had not been approved by Warner J. were inadvertently missed, and remained in the records provided to the Goldies.

[42] It took far too long for the Municipality to provide the corrected records to the Goldies. This was not done until the week of October 17, 2022, one week before the hearings in this matter.

[43] Ms. Goldie asserted that the Goldies had still not been provided with corrected records for the years 2012 and 2013. This was not disputed by the Municipality.

[44] The delay in providing these records has been inordinate. The Municipality must provide the records for 2012 and 2013, redacted in compliance with the Order of Warner J. dated November 10, 2021, to the Goldies forthwith, and I will so order.

***8100 Hits for File 18-00123***

[45] In response to the Goldies' concern that the Municipality had not disclosed all documents that should have been disclosed in response to the access to information request in File 18-00123, Warner J. directed the Municipality to conduct the search again. According to Mr. Cuming, the Municipality conducted

two further searches for documents, and disclosed the results of those further searches to the Goldies, without removing documents on the basis of relevancy or duplicated documents.

[46] The Goldies still believe that the Municipality is withholding a significant number of documents.

[47] The discrepancy in “hits” is not sufficient to discharge the burden on the Goldies to establish, with evidence, a reasonable basis for concluding that records sought by the Goldies exist and that the Municipality is withholding them.

***Did The Municipality Only Look for Emails in File 18-00123?***

[48] The Goldies make the bare assertion that the Municipality only looked for emails in response to File 18-00123. Mr. Cuming denied this. The burden is on the Goldies to establish, with some evidence, a reasonable basis to conclude that documents sought by them exist. Their assertion that the Municipality only looked for emails is not sufficient to discharge that burden.

***Further Documents***

[49] During closing argument in the appeal hearing, Ms. Goldie suggested that the Goldies were also seeking disclosure of additional documents. The Goldies did



not adduce evidence to establish a reasonable basis to believe that such documents exist.

***Conclusion re: Appeal – Withheld Records?***

With the exception of the unapproved redactions in the records from 2012 and 2013 in File 18-00123, the Goldies have not established, with evidence, a reasonable basis to conclude that the records they seek from the Municipality exist.

**The Contempt Motion**

[50] In the Notice of Motion for a Contempt Order, the Goldies listed 13 grounds of contempt. In their 43 page brief and in the affidavit of Ms. Goldie sworn on May 19, 2021 and filed in support of the contempt motion, the Goldies listed six grounds for contempt.

[51] Notwithstanding its civil nature, contempt of court is quasi-criminal. The jurisdiction of the Court to make a finding of contempt should be exercised with scrupulous care and only when the contempt is clear: see *Skipper Fisheries Ltd. v. Thorbourne*, 1997 NSCA 16 at para.77. Clear, precise and unambiguous notice of the specific contempt offence must be given to the accused”: *Morasse v. Nadeau-Duboi*, 2016 SCC 44 at para.20; and see *Skipper*, *supra* at para.78.

[52] The standard of proof in contempt proceedings is proof beyond a reasonable doubt. The Goldies bear the burden of proving the following beyond a reasonable doubt: (a) that the terms of the order relied on by them are clear and unambiguous, (b) that proper notice was given to the Municipality of the terms of the order; (c) and that the Municipality intentionally committed an act that is in fact prohibited by the terms of the order. See *Soper v. Gaudet*, 2011 NSCA 11 at para.23 and *TG Industries v. Clarke Inc.*, 2001 NSCA 105 at para.17.

***Citation for Contempt Defined with Sufficient Particularity?***

[53] The grounds for contempt in the Notice of Motion for Contempt, while numerous, are vague. For the most part, the grounds are not connected to the terms of an order of the court. The Notice of Motion did not, in my view, provide the Municipality with clear, precise and unambiguous notice of the specific contempt offences alleged by the Goldies.

[54] In their brief, the Goldies listed six grounds for contempt:

Reason for Contempt #1 – File 18-00123 (Personal and Business) Missing Records

Reason for Contempt #2 – Discrepancy in FOIPOP Binders provided to the court

Reason for Contempt #3 – Certified Partial Court Transcript of 08 April 2019

Reason for Contempt #4 – Municipality’s Status Report – Court Ordered

Reason for Contempt #5 – Further Record of Discrepancies  
Reason for Contempt #6 – Failure to Un-Redact Records

[55] Neither the brief nor the supplemental written submission of the Goldies assisted the Court in understanding the precise grounds for contempt.

[56] The Goldies relied on the following affidavits of Ms. Goldie to explain the grounds for contempt: the affidavit of Ms. Goldie sworn on May 19, 2021 in support of the contempt motion; a supplemental affidavit of Ms. Goldie sworn on August 6, 2021; and two affidavits of Ms. Goldie sworn on January 8, 2021. Those affidavits did not assist the Court in understanding the precise grounds for contempt.

[57] I accept that the Municipality had considerable difficulty obtaining clarification from the Goldies about the precise allegations of contempt.

[58] In my view, the Goldies failed to define their grounds of contempt with sufficient particularity.

[59] In the event that I am wrong in determining that the grounds of contempt are not defined with sufficient particularity, I will attempt to articulate what appear to be the allegations of contempt. I will then go on to consider whether the Goldies have proven, beyond a reasonable doubt, that the terms of the relevant order are

clear and unambiguous and that Municipality intentionally committed an act that is in fact prohibited by the terms of an order.

[60] The grounds of contempt appear to be as follows:

1. There should have been 8100 “hits” of the Goldies’ search terms in the records produced in response to File 18-00123.
2. In response to the Goldies’ assertion that the Municipality had not provided them with documents from the calendar year 2011, Mr. Cuming stated that emails from 2011 were “archived” and therefore inaccessible, when in fact, as stated by new counsel for the Municipality more recently, those emails no longer exist because they pre-date a computer upgrade. The Goldies say that “archived” meant physically stored somewhere.
3. The Municipality filed with the Court a copy of all of the Goldies’ access to information requests and all of the Municipality’s responses, at the direction of Warner J. In doing so, the Municipality misled the Court because it included documents that it had purportedly provided to the Goldies in response to File 18-00067. However, those documents had not, in fact, been provided to the Goldies.
4. The Municipality did not comply with the directions of Warner J. given orally at an April 8, 2019 appearance.
5. The Municipality failed to comply with an Order of Warner J. dated October 28, 2020, requiring the Municipality to provide a status report.
6. The documents provided to the Goldies before the *in camera* hearing with Warner J. on February 18, 2020 were not a mirror image of the documents provided to the court, contrary to Civil Procedure Rules 16.01(3) and 16.02(4), and the redactions contained in the documents provided to the Goldies before the *in camera* hearing exceeded the number of redactions that the Municipality ultimately proposed to the court during the February 18, 2020 redaction hearing.
7. Records in response to File 18-00123 are still redacted.

***8100 Hits***

[61] I have already found that the Goldies have not adduced sufficient evidence to establish a reasonable basis for believing that the Municipality is withholding records in response to File 18-00123 by virtue of the fact that the records produced do not contain the number of “hits” that the Goldies were expecting. It follows that the Goldies have not proven, beyond a reasonable doubt, that the Municipality has intentionally withheld records in breach of any of the orders of Warner J. requiring the disclosure of records.

***Archived Emails for the Year 2011***

[62] The Goldies seek emails from 2011 in File 18-00123. They do not believe the Municipality when it says that those emails are “archived” and that they are and have been at all relevant times inaccessible. They believe that “archived” means physically stored somewhere.

[63] This ground for the contempt motion fails. The Goldies misunderstood what Mr. Cuming was saying when he informed them that emails from 2011 were “archived” and therefore inaccessible. Mr. Cuming confirmed in cross-examination that the 2011 emails are and have been, at all times material to this appeal, inaccessible. His evidence was not contradicted.

[64] The Goldies have not proven, beyond a reasonable doubt, that the Municipality breached an order of Warner J. by failing to produce emails from the year 2011 in response to File 18-00123.

***Including More Documents in Response to File 18-00067 Than Actually Provided to the Goldies***

[65] In response to the direction of Warner J. at the initial motion for directions, the Municipality filed several volumes of documents that included all of the Goldies' access to information requests and the responses of the Municipality to date. The Goldies were provided with a copy of these documents. They noticed that the Municipality had included more information in these documents in response to File 18-0067 than had actually been provided to the Goldies at that time.

[66] When Ms. Goldie brought to light the discrepancy between what the Goldies had been previously provided and what the Municipality filed with the Court, the Municipality acknowledged the discrepancy.

[67] The Goldies take issue with what Mr. Cuming allegedly said when acknowledging, on behalf of the Municipality, the discrepancy. According to the Goldies, Mr. Cuming characterized the mistake as an "omission." The Goldies take umbrage with this description, asking rhetorically how it can be an omission when

the Municipality *added* documents. The Goldies assert that this discrepancy was “a misrepresentation of records to the court by legal counsel.”

[68] I interpret what Mr. Cuming said, on behalf of the Municipality, as an acknowledgement that a mistake was made. The important point is that, when the Municipality filed the documents with the Court, it provided the Goldies with a copy of the documents, at which point the Goldies had the documents.

[69] The Goldies have not satisfied me, beyond a reasonable doubt, that the Municipality intentionally misled the Court. On the contrary, I am satisfied, on the evidence, that the Municipality made a mistake. Nor have the Goldies been able to point to an Order of Warner J. allegedly breached by the Municipality when it made this mistake.

***Failure to Comply with Court’s Directions on April 8, 2019***

[70] The Goldies say that the Municipality failed to comply with the directions given by Warner J. on April 8, 2019 in relation to File 18-00067.

[71] The Goldies filed a certified transcript of the April 8, 2019 appearance. It is 96 pages long. No written order was taken out to confirm these directions. It is not clear what contemptuous conduct the Goldies are alleging.

[72] This ground of contempt fails. The Goldies have not provided clear, precise and unambiguous notice of the specific contempt offence alleged. There is no order setting out the terms allegedly breached. The Goldies have not proven beyond a reasonable doubt the Municipality intentionally committed an act that was contrary to an order of Warner J.

***Status Report Required by Order dated October 28, 2020***

[73] The Goldies state that the Municipality failed to file a status report, responding to the Goldies' concerns as set out in the Goldies' October 15, 2020 brief, in violation of the October 28, 2020 Order of Warner J.

[74] The Municipality filed its status report on November 12, 2020. The Goldies appear to take issue with the fact that the Municipality only provided the status of the various requests made by the Goldies, rather than fulfilling those requests.

[75] The Municipality complied with the Order of Warner J. to provide a status report. This ground of contempt fails.

***Mirror Image/Municipality Ultimately Proposed Less Redactions***

[76] There is no order that required the Municipality to provide the Goldies with a "mirror image" of the documents provided to the court for purposes of the



February 18, 2020 *in camera* redaction hearing. There is no order that required the Municipality to ultimately propose the same number of redactions that it initially proposed. This ground of contempt fails.

***Records for 2012 and 2013 Still Redacted***

[77] The Goldies have failed to prove, beyond a reasonable doubt, that the Municipality intentionally failed to provide them with records for the years 2012 and 2013 that comply with the redaction order of Warner J. in File 18-00123. In his cross-examination, Mr. Cuming stated that he was not aware that the Goldies had not yet been provided with these records. I accept his evidence. It was not contradicted by the Goldies.

***Conclusion re: Motion for Contempt***

[78] The motion for a contempt order is dismissed

**Conclusion**

[79] The appeal is allowed to the extent that the Municipality must provide the Goldies, forthwith, with records for the years 2012 and 2013 in File 18-00123 that comply with the redaction order of Warner J. dated November 10, 2021. The

motion for contempt is dismissed. I ask that counsel for the Municipality prepare the order.

[80] If the parties cannot agree on the costs of the appeal and the contempt motion, I will receive written submissions from them no later than two weeks from the date of this decision, and reply submissions from them no later than three weeks from the date of this decision.

Gatchalian, J