



BY COURIER

May 7, 2015

Mr. Mark Blumberg
Barristers & Solicitors
Blumberg Segal LLP
390 Bay Street, Suite 1202
Toronto, Ontario M5H 2Y2

File No. ARB-2012-00001 / CD

Dear Mr. Blumberg:

I write in response to your request under the *Access to Information Act* (the Act) for:

documents and other material, including emails, memos, briefing notes, backgrounders, media summaries, reports, correspondence, etc. produced by the Department of Canadian Heritage and CPERB concerning:

- a) schemes involving inflated valuation of cultural property or the abuse of the CPERB system;*
- b) the Advisory on Charitable Tax Receipts issued by CPERB on March 16, 2011;*
- c) the Advisory on Tax Shelter Gifting Arrangements October 14, 2010;*
- d) an article by reporter David Baines of the Vancouver Sun entitled "Blockbuster donation of sculptures turns into bust" dated January 26, 2013;*
- e) copies of all valuation reports received by the CPERB for values over \$1 million, i.e. as per following clarification:*
 - valuation reports (monetary evaluations) relating to any file over \$1 million, identified as a tax shelter*
 - valuation reports (monetary evaluation) relating to any file over \$10 million, whether a tax shelter or not;*
- f) the number of certifications provided by CPERB in each year since 2001 and the total value of such certifications on an annual basis (Time-frame = 5 years as per clarification);*
- g) any audit reports on CPERB (Time-frame = 5 years as per clarification);*
- h) the removal of status of a Designated Institution.*

Please find enclosed records responsive to **portions b, c, d, and f** of your request.

For **portion g**, we conducted a thorough search and did not locate records relevant to your request.

For **portion h**, the responsive records were sent to you on July 16, 2013 by the Department of Canadian Heritage (PCH file A-2012-00203 / ND) which, at the same time, informed you that the Canadian Cultural Property Export Review Board (CCPERB) will respond to the remainder of your request. Since then, responsibility for processing ATIP requests made to CCPERB was transferred to the Administrative Tribunals Support Service Canada (ATSSC) with the coming into force of the *Administrative Tribunals Support Service Canada Act* on November 1, 2014.

With respect to the release of information for **portions b, c, d, and f**, certain elements of information are being withheld under sections 19(1) [personal information], 20(1)(b) [commercial confidential information], 21(1)(a) [advice and recommendations], 21(1)(b) [consultations or deliberations], 23 [solicitor-client privilege], 24(1) [statutory prohibitions] of the *Act*. Copies of these sections are enclosed.

Please note this is a partial release. The records responsive to **portions a and e** will be issued as soon as possible.

Please note that you are entitled to file a complaint with the Information Commissioner of Canada regarding your request within sixty days of the receipt of this letter. Should you decide to file a complaint, it should be addressed to:

Office of the Information Commissioner
30 Victoria Street
Gatineau, Québec K1A 1H3

Should you have any questions regarding the processing of your request, please do not hesitate to contact:

Ms. Sonia M. Lismer, Secretary
Secretariat to the Canadian Cultural Property Export Review Board
Administrative Tribunals Support Service of Canada
25 Eddy Street, 9th Floor (25-9-N)
Gatineau, QC K1A 0M5
sonia.lismer@pch.gc.ca
Telephone: 819-997-7752
Fax: 819-997-7757

Yours sincerely,



Elaine McIntosh
ATSSC ATIP Manager



Enclosures: Release, Sections of the *Act* and Duty to Assist

ACCESS TO INFORMATION ACT

Personal information

19. (1) Subject to subsection (2), the head of a government institution shall refuse to disclose any record requested under this Act that contains personal information as defined in section 3 of the *Privacy Act*.

Where disclosure authorized

(2) The head of a government institution may disclose any record requested under this Act that contains personal information if

- (a)** the individual to whom it relates consents to the disclosure;
 - (b)** the information is publicly available; or
 - (c)** the disclosure is in accordance with section 8 of the *Privacy Act*.
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20. (1) Subject to this section, the head of a government institution shall refuse to disclose any record requested under this Act that contains

- (a)** trade secrets of a third party;
 - (b)** financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;
 - (c)** information the disclosure of which could reasonably be expected to result in material financial loss or gain to, or could reasonably be expected to prejudice the competitive position of, a third party; or
 - (d)** information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.
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Advice, etc.

21. (1) The head of a government institution may refuse to disclose any record requested under this Act that contains

(a) advice or recommendations developed by or for a government institution or a minister of the Crown,

(b) an account of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown or the staff of a minister participate,

(c) positions or plans developed for the purpose of negotiations carried on or to be carried on by or on behalf of the Government of Canada and considerations relating thereto, or

(d) plans relating to the management of personnel or the administration of a government institution that have not yet been put into operation,

if the record came into existence less than twenty years prior to the request.

Solicitor-client privilege

23. The head of a government institution may refuse to disclose any record requested under this Act that contains information that is subject to solicitor-client privilege.

Statutory prohibitions against disclosure

24. (1) The head of a government institution shall refuse to disclose any record requested under this Act that contains information the disclosure of which is restricted by or pursuant to any provision set out in Schedule II.

Review of statutory prohibitions by Parliamentary committee

(2) Such committee as may be designated or established under section 75 shall review every provision set out in Schedule II and shall, not later than July 1, 1986 or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting, cause a report to be laid before Parliament on whether and to what extent the provisions are necessary.

Information Sheet

Principles for assisting applicants

In processing your request under the *Access to Information Act*, we will:

1. Process your request without regard to your identity.
2. Offer reasonable assistance throughout the request process.
3. Provide information on the *Access to Information Act*, including information on the processing of your request and your right to complain to the Information Commissioner of Canada.
4. Inform you as appropriate and without undue delay when your request needs to be clarified.
5. Make every reasonable effort to locate and retrieve the requested records under the control of the government institution.
6. Apply limited and specific exemptions to the requested records.
7. Provide accurate and complete responses.
8. Provide timely access to the requested information.
9. Provide records in the format and official language requested, as appropriate.
10. Provide an appropriate location within the government institution to examine the requested information.