

Decision D0142007 – Published in note form only

***Re Poprzeczny and Simmonds and Water Corporation* [2007] WAICmr 14**

Date of decision: 15 August 2007

Freedom of Information Act 1992: Section 26

The background events leading to this complaint were set out in the published reasons for the decision in *Re Poprzeczny & Simmonds and Water Corporation* [2006] WAICmr 17.

The complainants applied to the Water Corporation ('the agency') for access to all documents supporting certain specified comments made to the complainants in correspondence from the agency.

The agency's A/Chief Executive Officer decided that the agency had taken all reasonable steps to find the requested documents but that the agency did not hold any such documents.

However, the complainants considered that additional documents should exist and applied to the A/Information Commissioner ('the A/Commissioner') for external review of the agency's decision.

Based on preliminary inquiries, it appeared that further documents may exist which had not been found. Therefore, the agency was required to make further searches for the requested documents. As a result, the agency identified a number of additional documents that appeared to be within the scope. The agency gave the complainants access to those documents and gave the A/Commissioner and the complainants a detailed description of the additional searches and inquiries conducted.

However, the complainants remained dissatisfied and made a number of further submissions in support of their claim that more documents must exist and those submissions were given to the agency to comment upon.

The agency did not identify any further documents and the A/Commissioner accepted the agency's explanations as reasonable. The complainants were informed of that view, but they remained dissatisfied.

The A/Commissioner then gave the parties her written preliminary view and her detailed reasons for that view. It was the A/Commissioner's view that it was not established that documents relating to two of the matters raised by the complainants should exist and that, in relation to the third matter, the agency had identified and given the complainants access to documents satisfying that part of the access application. It was the A/Commissioner's preliminary view that the agency had taken all reasonable steps to find the requested documents but that additional documents of the kind the complainants believe should exist at the agency either cannot be found or do not exist. The A/Commissioner was also satisfied that the complainants had been adequately informed of the nature and extent of the searches conducted by the agency.

The complainants were invited to reconsider their complaint and to respond to the A/Commissioner's view. The complainants did not respond to the requests to either withdraw from the complaint or provide any evidence to support the claim that additional documents exist that had not been dealt with.

In the absence of any material to dissuade her from her preliminary view, the A/Commissioner confirmed the agency's decision under s.26 of the FOI Act to refuse access to any further documents of the kind requested on the ground that, despite all reasonable steps having been taken to locate the requested documents, they do not exist or cannot be found.