

Decision D0152006 - Published in note form only

***Re Sideris and State Administrative Tribunal* [2006] WAICmr 15**

Date of Decision: 27 June 2006

Freedom of Information Act 1992: Section 15, 23(1)(b)

The complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the Minister for Housing and Works ('the Minister') for access to all documents relating to a certain property for the period 1999-2005. The Minister transferred part of that application to the State Administrative Tribunal ('the agency') under section 15 of the FOI Act.

The agency refused the complainant access to the requested documents under section 23(1)(b) of the FOI Act, on the ground that the documents are not documents of the agency because the right of access to documents of a court (or tribunal) is limited to documents relating to matters of an administrative nature only. The complainant applied to the A/Information Commissioner ('the A/Commissioner') for external review of the agency's decision.

On receipt of this access application the A/Commissioner obtained the originals of the documents and, on 19 April 2006, provided the parties with a letter setting out her preliminary view of the complaint, which was that the requested documents are not "*documents of a court*" because clause 5 of the Glossary to the FOI Act provides that a document relating to a court (including a tribunal) is not to be regarded as a document of the court unless it relates to matters of an administrative nature. In this case, the A/Commissioner's preliminary view was that the agency is a tribunal and therefore a court for the purposes of the FOI Act for the reasons given in paragraphs 89-94 of her decision in *Re Bartucciotto and State Administrative Tribunal* [2006] WAICmr 9. It was also the A/Commissioner's preliminary view that all of the requested documents relate to the agency's exercise of its judicial or quasi-judicial functions in determining an application for review under s.401(3) of the *Local Government (Miscellaneous Provisions) Act 1960* and do not concern matters of an administrative nature. The A/Commissioner considered the complainant's claim that additional documents should have been identified by the agency but noted that despite having been requested to do so, the complainant had not clarified what those allegedly missing documents were.

In response to that letter, the complainant made further submissions, which included complaints about certain procedural matters in relation both to the agency and this office; allegations concerning various matters; a consideration of the application of the *Freedom of Information Act 1989 (NSW)*; and the relevance of previous decisions of this office concerning 'documents of a court' and the A/Commissioner's interpretation of *Re Bartucciotto*. The complainant also identified the alleged missing documents. Having considered all of the matters raised by the complainant – a number of which were not relevant to the matters for determination – the A/Commissioner was not dissuaded from her preliminary view that all of the requested documents (including the 'missing' documents) are documents which concern or relate to a particular matter considered, reviewed and determined by the agency in the exercise of its judicial or quasi-judicial functions and do not concern matters of an administrative nature. Accordingly, for the reasons set out in detail in the A/Commissioner's letters to the complainant, the A/Commissioner found that the agency's decision to refuse the complainant access to the requested documents under section 23(1)(b) was justified.