

inquiries, this Office was informed that the Minister forwarded a response to the petitioner by letter dated April 18, 2006.

3. I advised the petitioner that in light of the response I was closing our file and reminded, at the same time, the Minister and his staff of the need to respond to right to information requests in a timely fashion in accordance with their statutory obligations. (See also in this respect my comments in recommendation NBRIOR- 2006-04.) Following receipt of the Minister's response and the several documents provided in response to her request, the petitioner filed a further petition on May 5, 2006 requesting that we review the documents not disclosed as a result of exemptions invoked by the Minister.
4. I conducted, on May 17th, 2006, an *in camera* review of the Department's file in this matter pursuant to subsection 7(4) of the *Right to Information Act*. I was able to confirm that all the documents disclosed to the petitioner constituted the entire file pertaining to this request, save one record. The record in question was an Opinion-recommendation, constituting three pages, prepared for the Minister outlining options and recommendations for the Minister's consideration in respect of Medical training and education in the province, and which was dated April 25, 2005. The Minister claims that this document is exempted from disclosure pursuant to paragraph 6(g) of the Act.
5. Paragraph 6(g) of the Act provides:
 6. There is no right to information under this Act where its release:
...
(g) would disclose opinions or recommendations for a Minister or Executive Council;
6. Canadian appellate courts have given similar provisions under right to information legislation a narrow interpretation, limiting the exemption's application to work product prepared in support of Cabinet's deliberative process or the Minister's decision-making function¹. This is not inconsistent with the earlier interpretive approach of New Brunswick courts which have interpreted the exemption broadly to extend to background reports and work product which may not have been addressed specifically to cabinet or a Minister, but which still informs and supports the decision-making process². In fact, courts here and elsewhere have given the statute a purposive interpretation which recognizes that the paragraph 6(g) exemption, and others like it, are aimed at protecting the confidence of Cabinet and the legislative

¹ *Ministry of Transportation v. Consulting Engineers of Ontario*, September 26, 2005, Ontario Court of Appeal, Docket C42061 Juriansz, J.A.

² *Maritime Highway Corp. v. New Brunswick (Minister of Transportation)* [1998] N.B.J. No. 299, Turnbull, J. (N.B.Q.B.)

process.

- 7. Having reviewed the memo for which the paragraph 6(g) exemption has been claimed, I find no basis to disclose it in part or in whole or to recommend that the Minister's exercise of his discretion to rely on the exemption in this case be reconsidered in any way.**

Dated at Fredericton, this 18th day of May, 2006.

Bernard Richard, Ombudsman