

Our Ref: 390450
Contact: Janis Adair - Chris Littlewood

2 October 2015

Mr Paul Gee
PO Box 249
Takaka
Golden Bay
Tasman 7142

By email: gasnsolarservices@gmail.com

Dear Mr Gee

**Provisional opinion
Official Information Act investigation
Plumbers, Gasfitters and Drainlayers Board
Request for information about gasfitter signing blank certificates**

In this letter, I advise you of my provisional opinion on my interpretation of your complaint about the Plumbers, Gasfitters and Drainlayers Board's refusal to provide you with requested information about a gasfitter signing blank certificates.

Request

In an email sent on 21 May 2014 to the Board, you sought the following information:

- "1. What happened to the guy responsible for all this, the guy who 'checked all the work' and issued the 570 blank signed certs, the man from the news article? Is he the one who is still before the Board some 5 years later?"*

- 2. Did you grant this same man's relative (I have been told his son) a full certifying licence around the time the person responsible for these 570 signed blank certs handed his licence in? Of note my sources tell me it was granted in the same manner as Tony Hammond's (Board inspector) and John Darnley's (person ignored by the Board his involvement in the explosion in Milton Street), both of whom have never sat an apprenticeship, so I am told ... just months after an explosion nearly killed someone?"*

Board's refusal

The Board (Mr Max Pedersen) advised you in a letter of 19 June 2014 of its refusal to provide you with the requested information:

"I am not able to comment on the particulars of outcome of any of the disciplinary proceedings in relation to this matter or on the identity of any of the parties who were disciplined but who were granted permanent name suppression by the Board. With respect to the matter which is still before the Board, I am unable to comment on any matter that is still before the Board.

I am therefore declining your request for information in respect of both your questions under section 6(c) of the Official Information Act on the grounds that making the information available would be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial.

I can advise that a decision is expected from the Board in the matter still before it in the near future. Once a decision is released, I may be in a position to respond to any further Official Information Act request you may make about that matter."

Investigation

In May 2014, you complained to this Office about the Board's refusal. In response to this Office's notification of your complaint, the Board provided in confidence an extensive amount of information. Initially, the Board relied on section 6(c) of the Official Information Act 1982 (OIA). It relies now also on section 9(2)(ba)(ii) and section 18(c)(i). The text of those provisions is **enclosed**.

In the light of the opinion I formed on the Board's reliance on section 18(c)(i) to withhold the requested information, it is unnecessary for me to form an opinion on the Board's reliance other provisions.

Section 18(c)(i)

Section 18(c)(i) provides that an agency may refuse a request for official information if making the requested information available would be contrary to a specified enactment. The Board is an agency subject to the OIA.

At the relevant time, the Plumbers, Gasfitters and Drainlayers Act 1976 (the 1976 Act) applied to disciplinary proceedings brought against registered tradesmen. The disciplinary provisions were in Part 4 of the 1976 Act. Section 43(13) (found in Part 4) read:

"Unless the Board otherwise directs, proceedings under this Part of this Act shall not be open to the public."

The Board advises that it did not make a direction "otherwise" in terms of section 43(13) relating to a disciplinary proceeding within your request, and no part of that proceeding was heard in public.

The Board submits that it would be contrary to section 43(13) of the 1976 Act to provide the information you requested and, accordingly, it is entitled to rely on section 18(c)(i) of the OIA to refuse your request. It advises that it has not published any information about the disciplinary proceeding.

Provisional opinion

My provisional opinion is that in light of section 43(13) of the Plumbers, Gasfitters and Drainlayers Act 1976, the Board was entitled to rely on section 18(c)(i) of the OIA to withhold the information within your request.

Your response

I will consider any comments you wish to make on my provisional opinion. Please let me have your comments no later than **23 October 2015**.

Yours sincerely



Professor Ron Paterson
Ombudsman

Encl: Copy Official Information Act 1982, ss 6(c), 9(2)(ba)(ii) and 18(c)(i)

Official Information Act 1982

6 Conclusive reasons for withholding official information

Good reason for withholding official information exists, for the purpose of section 5 of this Act, if the making available of that information would be likely—

...

- (c) To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial;

9 Other reasons for withholding official information

- (1) Where this section applies, good reason for withholding official information exists, for the purpose of section 5 of this Act, unless, in the circumstances of the particular case, the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

- (2) Subject to sections 6, 7, ... 10, and 18 of this Act, this section applies if, and only if, the withholding of the information is necessary to—

...

- (ba) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—

...

- (ii) Would be likely otherwise to damage the public interest;

18 Refusal of requests

A request made in accordance with section 12 of this Act may be refused only for one or more of the following reasons, namely:

- (a) that, by virtue of section 6 or section 7 ... or section 9 of this Act, there is good reason for withholding the information:

...

- (c) that the making available of the information requested would—

- (i) be contrary to the provisions of a specified enactment;