

ONTARIO  
SUPERIOR COURT OF JUSTICE  
DIVISIONAL COURT

BROCKENSHIRE, LEDERMAN and SWINTON JJ.

<b>B E T W E E N:</b>	)	
	)	
GRANT FOREST PRODUCTS INC.	)	<i>Peter A. Downard and Annie M. K. Finn, for</i>
	)	the Applicant
Applicant	)	
	)	
- and -	)	
	)	
	)	
BEVERLEY CADDIGAN,	)	<i>William S. Challis and Stephen McCammon,</i>
ADJUDICATOR, MINISTRY OF	)	for the Respondent Beverley Caddigan,
NATURAL RESOURCES AND JOHN	)	Adjudicator
DOE, REQUESTER	)	
	)	
Respondents	)	
	)	
	)	<b>HEARD at Toronto: May 27, 2008</b>

**SWINTON J.:** (Orally)

[1] Grant Forest Products Inc. seeks judicial review of the Order of Beverley Caddigan, Adjudicator, dated August 17, 2006, upholding the decision of the Ministry of Natural Resources to disclose certain records to the Requester.

[2] The applicant argues that the Adjudicator’s order should be set aside as the records are exempt from disclosure pursuant to s. 17(1) of the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31. Section 17(1) of the *Act* provides as follows:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

[3] The parties are agreed that the appropriate standard of review in this application is reasonableness.

[4] The applicant takes issue with the Adjudicator's conclusion that the information relating to wood supply from private sources and total operating capacity was not supplied in confidence. Issues were also raised with respect to immutability and the scope of the disclosure, given the original request. The issue of the scope of disclosure was not raised before the Adjudicator, and it is not appropriate to review her decision on that ground.

[5] The Adjudicator found that the documents at issue were the result of a negotiation process. Indeed, that was made clear in a letter from the applicant to the Ministry dated October 19, 1998.

[6] The Adjudicator found that the letters of commitment were essentially a contract between the parties. There is a statement in the 1998 documents where the Ministry recognizes the "Ministry Recognized Operating Level" ("MROL"), which suggests this is a mutually agreed upon term of the contract between the parties.

[7] As a result of her findings, the Adjudicator concluded that the information in the documents was not “supplied” within s. 17(1) of the *Act*. She also held that there was insufficient evidence before her to show that any of the information, including the private source of wood supply, was “immutable” (even though the applicant did not raise the issue of immutability before her).

[8] On the record, the conclusion with respect to immutability was reasonable. In reaching her decision, the Adjudicator applied existing jurisprudence to the material before her. In our view, her decision was a reasonable one.

[9] Therefore, the application for judicial review is dismissed.

**BROCKENSHIRE J.:**

[10] The application is dismissed for oral reasons read by Swinton J. The sealed record referred to at the hearing is to be re-sealed pending further order. Costs to the Commissioner fixed at \$7,500.00.

BROCKENSHIRE J.  
LEDERMAN J.  
SWINTON J.

**Date of Reasons for Judgment: May 27, 2008**

**Date of Release: May 30, 2008**

**COURT FILE NO.:** 447/06

**DATE:** 20080527

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**BROCKENSHIRE, LEDERMAN and  
SWINTON JJ.**

**B E T W E E N:**

GRANT FOREST PRODUCTS INC.

Applicant

- and -

BEVERLEY CADDIGAN, ADJUDICATOR,  
MINISTRY OF NATURAL RESOURCES  
AND JOHN DOE, REQUESTER

Respondents

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**ORAL REASONS FOR JUDGMENT**

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SWINTON J.

**Date of Reasons for Judgment: May 27, 2008**

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