

Our file: A-2011-00132/PA

DEC 14 2012

Mr. Tyler Sommers  
Coordinator  
Democracy Watch  
1 Nicholas St., Suite 412  
P.O. Box 821, Station B  
Ottawa, Ontario  
K1P 5P9

Dear Mr. Sommers:

This is further to your letter of November 14, 2012 concerning the access to information request submitted by Democracy Watch and received by Elections Canada on March 19, 2012. Your initial request reads as follows:

*All rulings, decisions letters, emails, and other documents sent to anyone who filed a complaint since April 1, 2004, with complaint's personal information removed and the personal information of anyone who was complained about removed. We are seeking the date the complaint was received, what the complaint alleged, when the complaint was investigated, summary of evidence gathered, ruling that was issued, and the ruling.*

As indicated in our letter dated September 21, 2012, the scope of your request as identified above was modified by your email sent on April 13, 2012. In that email, you clarified that the request was for communication of the final decision made by the Commissioner of Canada Elections or Elections Canada that was sent in response to all complaints listed in the Chief Electoral Officer's reports on the 41<sup>st</sup>, 40<sup>th</sup>, 39<sup>th</sup>, 38<sup>th</sup>, 37<sup>th</sup> and 36<sup>th</sup> general elections.

I would like to bring to your attention that the complaints listed in the Chief Electoral Officer's reports only include the complaints dealt with by the Commissioner of Canada Elections. The reports do not include decisions made by the Chief Electoral Officer. As such, we have processed your request to only include decisions made by the Commissioner of Canada Elections and have applied section 16.3 of the *Access to Information Act* to withheld some records in their entirety.

You indicated in your letter that the application of 16.3 of the *Access to Information Act* is subject to section 541 of the *Canada Elections Act*. Therefore, Democracy Watch should be able to inspect decisions made by the Chief Electoral Officer. The Commissioner of Canada Elections is a public office holder appointed by the Chief Electoral Officer under section 509 of the *Canada Elections Act*. The Commissioner's decisions are made independently from the Chief Electoral Officer and are not captured by section 541 of the *Canada Elections Act*. As such, section 541 of the *Canada Elections Act* does not apply in the context of your request.

As indicated in our letter of September 21, 2012, we have continued our search for the final decision made by the Commissioner of Canada Elections for the 38<sup>th</sup>, 37<sup>th</sup> and 36<sup>th</sup> general elections.

Enclosed you will find the records related to the 37<sup>th</sup> general election. Some records have been withheld in their entirety under section 16.3 of the *Access to Information Act* which reads as follows:

*Subject to section 541 of the Canada Elections Act, the Chief Electoral Officer may refuse to disclose any record requested under this Act that contains information that was obtained or created by or on behalf of a person who conducts an investigation, examination or review in the performance of their functions under the Canada Elections Act.*

With respect to the complaints for the 38<sup>th</sup> and 36<sup>th</sup> general elections, we estimate that it will take a significant amount of time to search, gather and prepare relevant records as some are currently filed at an off-site location. Please note that the time needed to complete the processing of your request is not an indicator of the volume of records that will be disclosed. If you wish to end your request for these records, please advise Elections Canada accordingly.

You are entitled to complain to the Information Commissioner concerning the processing of your request within sixty days of the receipt of this notice or as otherwise provided for in section 31 of the *Access to Information Act*. In the event you decide to avail yourself of this right, your notice of complaint should be addressed to:

Information Commissioner of Canada  
Place de Ville, Tower B, 22<sup>nd</sup> Floor  
112 Kent Street  
Ottawa, ON  
K1A 1H3

If you have any questions concerning this request, please contact Prince Afram by telephone at 613-949-1571 or by email at [prince.afram@elections.ca](mailto:prince.afram@elections.ca). Please refer to the file number A-2011-00132 in any future correspondence.

Yours truly,



Michèle Babin  
Manager and Coordinator  
Access to Information and Privacy

Enclosures: 19 pages