



[3] I have jurisdiction over the NHC: ATIPPA, s 2, definition of “public body”; ATIPP Regulations, s 1(2)(a) and Schedule A, column 1, item 9. I also have jurisdiction over all housing authorities and housing associations under the *Nunavut Housing Corporation Act*: ATIPP Regulations, s 1(2)(b) and (c).

## Issues

- [4] The issues in this review are:
- a. To what extent is NHC responsible for responding to ATIPP requests on behalf of LHOs?
  - b. Is the Applicant entitled to receive the requested records?
  - c. Did NHC conduct a diligent search for the requested records?

## Facts

[5] The legal analysis of this case is straightforward. The real significance of this case is in the facts, not the law. I will therefore go into more detail on the facts than I usually do.

[6] The Applicant works for an advocacy organization. The organization’s work includes territory-wide housing issues. On February 24, 2021, the Applicant submitted an ATIPP request to NHC for “Any and all policy, guidelines or manuals originating from and/or applicable to the Nunavut Housing Corporation and all of the Local Housing Authorities (LHOs).”

[7] Whenever I used the word “policy” in this decision, it should be understood as meaning “policy, guidelines or manuals”. That will avoid needless repetition.

## *Nunavut Housing Corporation*

[8] The Nunavut Housing Corporation (NHC) is a government entity with wide responsibility for housing in Nunavut. It is established under and governed by the *Nunavut Housing Corporation Act*, RSNWT 1988, C N-1 (Nunavut). It owns and manages a substantial portfolio of residential properties throughout the territory.

- [9] NHC has programs for public housing, staff housing, staff condominiums, and home ownership. The home ownership program includes at least eight sub-programs. The largest program, both in the number of units and the annual operating expense, is public housing.
- [10] The public housing program is a rental program which provides subsidized housing to tenants based on their income and ability to pay rent. As of March 31, 2020, there were 5,668 public housing units in Nunavut. In the 2019-20 fiscal year, the cost of public housing was \$210.3 million, offset by \$17.6 million in rent. The public-housing program is of high importance to the lives and well-being of many Nunavummiut.

#### *Local housing organizations*

- [11] The public housing program is delivered by NHC, working through an LHO in each of Nunavut's 25 communities.
- [12] The LHO is usually a society with a locally-elected board of directors, but in six communities (Baker Lake, Cape Dorset, Coral Harbour, Iqaluit, Kugaaruk and Taloyoak) the LHO is a "housing authority" created by regulation and with members appointed by the minister.
- [13] The relationship between NHC and the LHOs was reviewed by the former Commissioner in *Nunavut Housing Corporation (Re)*, 2020 NUIPC 6 (CanLII). In that case several LHOs were complaining about the degree to which they were subject to NHC's control. They filed privacy breach complaints with the Commissioner.
- [14] Each LHO administers the NHC's housing programs in the community, and manages and maintains NHC assets in the community. The NHC has a political and financial interest in the operations of the LHO. The NHC has a management agreement with each LHO, which imposes detailed obligations on the LHO. The NHC provides housing management software that the LHO is required to use. The residential leases are in fact between NHC and the tenant, not the LHO and the tenant.

### *Processing of the ATIPP request*

- [15]** On March 30, 2021, NHC disclosed some documents to the Applicant. These documents were described as “The Nunavut Housing Corporation’s Public Housing policies and guidelines.” Later, these documents were described by NHC as “the records that are in the Nunavut Housing Corporation’s possession.” They were:
- a. NHC Collection Policy (which has a sunset clause stating it expires January 31, 2017).
  - b. NHC Collection Procedures Manual.
  - c. Housing Inspection Program User Manual v1.2.
  - d. NHC Local Housing Organization Board Members Manual.
  - e. NHC Public Housing Modernization and Improvement Program – Guidelines and Procedures.
  - f. Rent Scale Procedures Manual, Version 3.75.
  - g. NHC Tenant Relations Manual, Version 1.4.

All of these documents were disclosed in the English language only. I do not know if these documents are available in Nunavut’s other official languages.

- [16]** NHC also pointed out where the Applicant could access relevant legislation, and added “The NHC and LHOs also utilize Occupational Health and Safety policies and guidelines from the Workers’ Safety and Compensation Commission.”
- [17]** The Applicant was not satisfied with the disclosure. In particular, the Applicant pointed out that the ATIPP application was for NHC and the LHOs, not just NHC.
- [18]** On April 8, 2021, NHC told the Applicant it was transferring the request to the 25 LHOs, under s 12(1) of the ATIPPA. NHC asked if the Applicant had “a particular interest in specific policies, guidelines, or manuals from a specific LHO”. If so, NHC said “we can attempt to speed up the process for

you as the request will not be directed to all 25 LHOs for a large number of records.”

- [19] On April 12, 2021, the Applicant responded, writing “Again, policies, guidelines and manuals originating from and/or applicable to all of the Local Housing Authorities related to public housing will do.”
- [20] NHC then contacted all of the LHOs, informing them of the ATIPP request and asking them to respond. NHC received replies from the following LHOs: Igloodik, Kingait, Rankin Inlet, Kikitak (Gjoa Haven), Taloyoak, Grise Fiord, Chesterfield Inlet, Clyde River, Tasiurqtit (Whale Cove), Baker Lake, Hall Beach, and Repulse Bay. (In passing, I note that some LHOs were formed before the community’s Inuit name was restored, and so the LHO’s legal name still reflects the community’s former English name.) NHC did not tell the Applicant which LHOs had responded and which had not.
- [21] On May 13, 2021, NHC sent an e-mail to the Applicant stating that the LHOs “have indicated they only use policies, guidelines, and manuals provided to them by the NHC. Attached are a few documents that some LHOs have indicated they use in addition to the documents mentioned above. We have, therefore, provided you with all the documents we have in our, and in the LHOs’ possession as per your request.”
- [22] The attachments to this May 13 e-mail were:
- a. Accounts Receivable Write-Off Policy, from the Kikitak Housing Association in Gjoa Haven.
  - b. Tenant Damage Repairs Recovery Policy, also from Kikitak.
- [23] The Applicant already had in their possession an “application scoring sheet” used by the Iqaluit Housing Authority. Scoring sheets are used to sort public-housing applicants into priority order. The Applicant believed that this Iqaluit scoring sheet should have been covered by the ATIPP request. Because this scoring sheet was not disclosed in response to the ATIPP application, the Applicant had reason to believe NHC’s search had been incomplete.

- [24] On June 24, 2021, the Applicant sent an e-mail to NHC, specifically requesting the point systems used by NHC and the LHOs. This request was, to the Applicant's mind, not a new request, but rather was covered by the original ATIPP application. NHC did not respond to this e-mail.
- [25] On August 24, 2021, the Applicant filed a request for review with this office.
- [26] On September 29, 2021, NHC disclosed to me, for purposes of this review, all relevant documents. The documents included some new records from LHOs that had been previously missed. All but the first were from the Igloodik Housing Association:
- a. Emergency Call-Out Policy (Taloyoak Housing Authority, updated 2018)
  - b. Fluorescent Light Tube Replacement (no date, in English and Inuktitut)
  - c. Administration Fees for Supplied Labour and Materials (2003)
  - d. Locked Out Policy (1993)
  - e. Pet Policy in Public Housing (2004, in English and Inuktitut)
  - f. Move-in Policy (1994)
  - g. Termination of Tenancy during winter months (1995)
  - h. New Applicant Policy (1994)
  - i. Administrative Charge for Exchanges or Transfers within Six Month Period (1995)
  - j. Request for Entry to Public Housing Units (1998)
  - k. Power Disconnection Policy (2003, in English and Inuktitut)
  - l. Rental Credit Refund Policy (2002, in English and Inuktitut)
  - m. Tenants Leaving their Housing (1992, in English and Inuktitut)
  - n. Letter concerning Public Housing Units left temporarily vacant (addressed to Clyde River Housing Association, 1994)

Except where otherwise noted, these policies were written in the English language only.

*Parties' submissions*

- [27] At the same time it disclosed all relevant documents to me, NHC made a detailed written submission. There are four aspects of this submission I will highlight.
- [28] First, NHC wrote “The policies included in our response are public housing policies, guidelines and manuals that were written by the NHC and are adopted by the LHOs should they choose to do so. Within the NHC, we do not have records of policies that are written by LHOs.” NHC said it had suggested to the Applicant that, if the Applicant wanted to see specific policies written by an LHO, the Applicant should contact the LHO directly.
- [29] Second, NHC wrote that it was excluding LHO management agreements from disclosure under s 17 of the ATIPPA.
- [30] Third, NHC wrote that it was not disclosing the following records, on the grounds that they were outside the scope of the Applicant’s request:
- a. LHO by-laws
  - b. NHC human resources policies, manuals, and guidelines
  - c. NHC finance policies, manuals, and guidelines
  - d. LHO human resources policies, manuals, and guidelines
- [31] Fourth, NHC addressed the Applicant’s e-mail of June 24, 2021. The Applicant had asked for information outlining the “point system” used for assessing a housing application. NHC wrote:
- If [the Applicant] is referring to the Public Housing Rent Scale or the Applicant Point Rating Form, these records are a part of the Rent Scale Procedures Manual as well as the Tenant Relations Manual initially provided to [the Applicant...].”
- [32] On October 15, 2021, the Applicant responded to NHC’s submission. I will highlight four aspects of their response. Their position is:
- a. NHC is responsible, for ATIPP purposes, for LHOs.

- b. NHC narrowed the scope of the ATIPP request without proper consultation.
- c. NHC's response is incomplete, because NHC does not state definitively that there are no other LHO policies in place that have not been disclosed.
- d. NHC has not clearly explained why certain policies (e.g. LHO by-laws, NHC human resources policy) were excluded from disclosure.

**[33]** The Applicant's response concludes with these words: "In summary, I remain concerned that the NHC is operating on inaccurate information in relation to their duties under the *Access to Information and Protection of Privacy Act* that is resulting in a lack of transparency to the public more generally."

**[34]** On October 27, 2021, NHC sent a reply submission. NHC argues that it is not responsible for ATIPP responses of LHOs. LHOs are separately designated as public bodies under the Act. They are independent entities with their boards of directors. The NHC does not, it says, have custody or control of LHO records.

## **Law**

**[35]** The ATIPPA includes two provisions indicating that a public body's policy statements should be available to the public.

**[36]** First, s 14(1) is an exemption for policy advice to the public body or to cabinet, but s 14(2) says that exemption does not apply to "a substantive rule or statement of policy that has been adopted by a public body for the purpose of interpreting an enactment or administering a program or activity of the public body."

**[37]** Second, and more importantly, there is s 71(1), which uses similar language to s 14(2) but goes further:



The head of a public body shall make available to the public, without a request for access under this Act,

(a) manuals, instructions or guidelines issued to the officers or employees of the public body, and

(b) substantive rules or policy statements adopted by the public body, for the purpose of interpreting an enactment or administering a program or activity that affects the public or a specific group of the public.

- [38]** Section 71(2) allows the head of a public body to delete “any information he or she would be entitled to refuse to disclose to an applicant”, provided the record shows what has been deleted and why.

### **Analysis**

- [39]** Before dealing with the specifics of this ATIPP application, I will consider how the ATIPPA treats LHOs, and the relationship between NHC and the LHOs.

#### *ATIPPA and the LHOs*

- [40]** NHC argues that LHOs are independent entities, and that NHC does not have custody or control of LHO records.
- [41]** The NHC–LHO relationship has previously been considered by this office. In a Review Report from 2014, the former Commissioner found that the NHC had “control”, for ATIPPA purposes, over the records of the LHOs: *Review Report 14-072 (Re)*, 2014 NUIPC 2 (CanLII). “These [the LHOs] are not independent organizations,” she wrote.
- [42]** In his response to Review Report 14-072 and the former Commissioner’s recommendation that each LHO should name an ATIPP coordinator, the minister responsible for NHC wrote the following:

The Minister Responsible for the Nunavut Housing Corporation, under section 69(1) of the *ATIPP Act*, has authorized three individuals within the Nunavut Housing Corporation to exercise power and perform certain duties or functions as ATIPP Coordinators. Considering the relationship between LHOs and the Nunavut Housing Corporation, their existence as separate entities from the

Government of Nunavut, as well as the operating capacity of each LHO, the Nunavut Hosing Corporation authorized ATIPP Coordinators will act as the coordinators for each Local Housing Organization. The designated Nunavut Housing Corporation ATIPP Coordinators will liaise, as necessary, with employees of LHOs to ensure all ATIPP requests are answered in accordance with the *ATIPP Act*, and that other aspects of the *ATIPP Act* are fully followed and implemented accordingly.

This passage suggests that NHC would deal with ATIPP requests on behalf of (and in cooperation with) the LHOs.

- [43]** Subsequent to Review Report 14-072, the ATIPP Regulation was amended to make explicit that each LHO is a “public body” within the meaning of the Act: s 1(2)(b) and (c), added by R-007-2015, s 2. But the “head” of the LHOs, for ATIPP purposes, is still the minister responsible for NHC: ATIPP Regulations, s 1(3)(b).
- [44]** So although NHC and the LHOs are technically separate, NHC does, as a practical matter, exercise considerable control and influence over how an LHO operates. The LHOs are not expected to handle ATIPP requests on their own. They do not, for example, have designated ATIPP Coordinators under s 70 of the ATIPPA. Their “head”, for ATIPPA purposes, is the NHC minister. I have no evidence before me that the NHC minister has delegated ATIPP administration directly to the LHOs. To the contrary, the NHC minister’s letter from 2014, which I have quoted above, says “the Nunavut Hosing Corporation authorized ATIPP Coordinators will act as the coordinators for each Local Housing Organization.”
- [45]** At one point in the processing of the application, NHC suggested to the Applicant that they could, if they were interested in the policy of a specific LHO, contact the LHO directly. At another point, NHC purported to transfer the ATIPP application to the LHOs, under s 12. I find that the NHC ATIPP Coordinator was acting in good faith in doing so, but these procedures were, in my view, legally incorrect. When it comes to ATIPP, the NHC plays a central coordinating role.

**[46]** There is no question that coordinating a response from 25 LHOs is an administrative burden for NHC. But the burden has to land somewhere, and it is better that the burden should be on NHC than on an individual applicant. That is the choice made by the GN when it amended the ATIPP Regulation. That is the law.

*Entitlement to disclosure of policies*

**[47]** We come now to the heart of the case: is the Applicant entitled to receive the policies used by NHC or an LHO? This part is easy: the answer is yes. Section 71(1) says so:

71. (1) The head of a public body shall make available to the public, without a request for access under this Act,

- (a) manuals, instructions or guidelines issued to the officers or employees of the public body, and
- (b) substantive rules or policy statements adopted by the public body, for the purpose of interpreting an enactment or administering a program or activity that affects the public or a specific group of the public.

Everything the Applicant has requested fits comfortably within s 71(1). I see no basis on which anything requested by the Applicant could be refused under s 71(2).

**[48]** Section 71(4) permits the public body to charge a “copy fee”, but that provision was written before there was a public internet, before email, and before PDF files. In 2021, government policies should be readily available in PDF format. A public body’s duplication cost is essentially zero. The policy can be posted on a website or sent by email. A copy fee should be charged only in those rare cases in which an applicant asks for a hard copy. Even then, I would suggest that fees for public-housing policies should normally be waived.

### *Narrowing the scope of the request*

- [49]** The Applicant’s original request was for “Any and all policy, guidelines or manuals originating from and/or applicable to the Nunavut Housing Corporation and all of the Local Housing Authorities (LHOs).”
- [50]** There was some discussion between NHC and the Applicant about whether the request could be narrowed. The Applicant says that the consultation was one-sided, and that NHC took too much liberty in narrowing the scope of the request.
- [51]** I have reviewed the e-mail correspondence between NHC and the Applicant. I do not know if there were telephone conversations too. I find NHC approached the matter in good faith. They believed that the original request, taken literally, would capture many records in which the Applicant would likely have little interest. They genuinely believed that narrowing the scope of the request would produce a faster, more useful response.
- [52]** In their email of April 12, 2021, the Applicant wrote “...NHC policies, guidelines and manuals originating from and/or applicable to all of the Local Housing Authorities related to public housing will do.” While I am mindful of the Applicant’s concern, this e-mail from the Applicant does indicate a willingness to pursue a narrowed request. In any event, that is the basis on which NHC proceeded.
- [53]** I also note, as a practical matter, that the original ATIPP request was filed more than eight months ago, and that the e-mail exchange on which NHC relied occurred more than six months ago. I do not wish, at this relatively late stage, to go back and re-open the scope of NHC’s search so that it is essentially starting again.

*What is a “public housing” policy?*

- [54] That still leaves the question of what exactly a policy “related to public housing” is. Certainly it includes any policy that on its face applies to public housing tenants and applicants.
- [55] A large, sophisticated organization like NHC is going to have many other policies that apply across its operations. The Public Housing Program is only one part, albeit the largest, of what NHC does. It also has a staff housing program, a staff condo program, and eight home-ownership programs. NHC has human resources policies, occupational health and safety policies, finance policies, accounting policies, and no doubt other policies that apply to all aspects of its operations, including but not limited to public housing.
- [56] As for the LHOs, their primary function is to administer the NHC Public Housing Program in their community. They may have other functions, but administering the public housing program is the bulk of their work and is the main reason they exist at all. There is therefore an even better argument that all LHO policies are, in essence, “public housing” policies.
- [57] On this issue I will give NHC the benefit of the doubt. They were trying in good faith to grapple with the Applicant’s request. NHC suggested a narrowed scope, which the Applicant accepted in their e-mail of April 12, 2021. NHC interpreted the narrowed scope of the ATIPP request as covering policies that were aimed specifically at public housing. In their view, the narrowed scope did not cover policies aimed at other NHC housing programs, policies dealing with corporate “back office” functions, or LHO by-laws. In the circumstances, I find it was reasonable for them to interpret the narrowed scope of the request that way. It was not a sign of bad faith.
- [58] Having said that, I see no reason why these other policies and by-laws would be exempt from disclosure under the ATIPPA. If the Applicant were

to file another ATIPP request to obtain these policies and by-laws, I expect NHC and the LHOs would have to disclose them.

- [59]** One final category of records is the set of management agreements between NHC and the LHOs. NHC says it withheld these agreements under s 17 of the ATIPPA. Section 17 permits a public body to refuse to disclose records if the information could reasonably be expected to harm the public body's economic interests. In my view, NHC could withhold the management agreements simply because they fell outside the narrowed scope of the Applicant's request. I therefore make no decision on whether the s 17 exemption was correctly applied.
- [60]** However I will add, in what I hope is useful guidance to the parties, that I doubt the s 17 exemption could apply to these management agreements. The agreements are between two public bodies, covering the critically important topic of how the Public Housing Program is to be administered in a given Nunavut community. For tenants of public housing and applicants for public housing, there is little that touches their daily lives and well-being more profoundly than the way the Public Housing Program is administered.
- [61]** I can think of nothing in the ATIPPA, nor any other public policy reason, why the NHC– LHO management agreements should be exempt from disclosure. I will, however, leave that legal point to another case in which the issue is raised directly and on which I have full submissions from each side. If it does come up in a future case, the onus of proof is on NHC: ATIPPA, s 33(1). If NHC wants to exempt these agreements from disclosure, it will have to bring forward evidence of harm that meets the standard discussed in *Nunavut Housing Corporation (Re)*, 2021 NUIPC 25 (CanLII) at paragraphs 116 and 117.
- [62]** In this case, as I have said, the management agreements do not have to be disclosed simply because they fall outside the narrowed scope of the ATIPP request.

*Did NHC conduct a diligent search?*

- [63] A public body that receives an ATIPP request is required to conduct a diligent search for responsive records: *Department of Education (Re)*, 2021 NUIPC 10 (CanLII) at paragraphs 21 to 27; see also *Department of Health (Re)*, 2021 NUIPC 20, and *Department of Education (Re)*, 2021 NUIPC 22.
- [64] There is a threshold question that has to be answered in every “diligent search” case, and that is whether there is some basis for believing that the requested record exists at all: *Review Report 17-118 (Re)*, 2017 NUIPC 5 (CanLII), citing Order P2010-10 of the Alberta Information and Privacy Commissioner.
- [65] The “some basis” test is a low threshold. It requires some evidence, but not much, from which it is reasonable to conclude that the record probably exists. The purpose of the “some basis” test is to prevent the public body expending time and effort on searches based only on an applicant’s subjective belief that a document must exist or should exist or might exist: *Department of Health (Re)*, 2021 NUIPC 20 (CanLII) at paragraph 19.
- [66] Do we have “some basis” to conclude that LHOs make their own policy? On this point, NHC documents are inconsistent.
- [67] The LHO Board Members Manual, prepared by NHC, stresses that LHOs must follow NHC policy. The manual acknowledges that there is some room for the board to depart from NHC policy in individual cases to take into account local conditions, as long as the decision is fully documented.
- [68] I have also seen one of the NHC–LHO management agreements. It states that “The LHO is responsible for following all relevant manuals, procedures and policies provided” (Schedule A, page 1). The agreement does refer to at least one item (recovery of tenant damage repairs) for which the LHO board should have its own policy (management letter, page 12).

**[69]** The clearest statement that an LHO can make policy is in the NHC Tenant Relations Manual (page 1400):

LHOs are encouraged to adopt and maintain policies that promote open, fair and transparent practices and sustainable tenant behavior. NHC maintains a library of helpful reference material that can be used for the purpose of policy implementation. NHC policy documents prepared for LHO use can be adopted as written or can be modified to suit the specific needs of the community.

**[70]** The Tenant Relations Manual also contains NHC's guidance on "point rating" (pages 409 to 421). After a detailed explanation of how the point-rating system works, the Applicant Point Rating Form (pages 418 to 421) is introduced with the following words:

The Applicant Point Rating Form provided may be modified and applied by the LHO accordingly:

Page 1 (Core Need Factors): must be used.

Page 2: is provided for an LHO if they prefer to use the form as provided.

Page 2a: is provided for an LHO who wants to use Section D (Income to CNIT) but wants to develop their own Section E Community Specific Factors.

Page 2b: is provided for an LHO who does NOT want to use Section

**[71]** We can see that NHC policy (the Tenant Relations Manual) lays down the general rules on applicant point rating, some of which are mandatory, but there is still leeway for the LHO to insert its own factors and ratings to reflect local conditions. To put it another way, NHC sets the framework for application scoring, but LHOs may adopt their own scoring policies as long as the overall framework is respected.

**[72]** As I previously noted, the Applicant had an "application scoring sheet" from the Iqaluit Housing Authority. I have compared this scoring sheet with the Tenant Relations Manual. The IHA appears to conform to NHC policy, while including certain factors to reflect local conditions. I do not know if the IHA also has a written-out policy on application scoring. Whether it does or not, the IHA scoring sheet is evidence that the IHA has, to at least some degree, set its own policy.



- [73] Finally, I note that NHC appears to acknowledge that LHOs may set their own policies on a variety of topics, even though the LHO Board Members Manual and the management agreements do not explicitly say that they can. In the course of processing this ATIPP request, NHC has disclosed to the Applicant at least sixteen LHO-specific policies, thirteen of which are from the Igloolik Housing Association.
- [74] The Igloolik Housing Association seems to have been particularly diligent in going through its files. The thirteen policies it produced go back as far as 1992, and the most recent is from 2004. They are typewritten and photocopied. At least one is in the form of a letter with policy suggestions, rather than being an actual policy. Some indicate when they were approved by the board, but some do not. All are in English, and some are also in Inuktitut. I wonder if all these policies are still valid, whether they are readily available to tenants, and whether they are known to and used by LHO staff.
- [75] As for the rest of the LHO-specific policies disclosed to the Applicant, there is one policy from Taloyoak, and two from Kikitak in Gjoa Haven. There are no application scoring sheets at all.
- [76] In all the circumstances, I am not persuaded that NHC's search for responsive records was thorough enough to meet the standard of a "diligent search". I offer the following reasons for this conclusion:
- a. The Applicant is correct that the Iqaluit Housing Authority application scoring sheet is a responsive record, and should have been produced as part of NHC's search. The fact that it was not is good evidence that responsive records were missed. (I note in passing that the Iqaluit Housing Authority is one of the thirteen LHO's that did not respond at all to NHC's e-mail in April 2021.) If any of the other LHOs uses an application scoring sheet that differs in any respect from the scoring sheet in the NHC Tenant Relations Manual, it should also have been disclosed. These scoring sheets are policy.

- b. The fact that the Igloodik Housing Association was able to find thirteen additional policies, while no other LHO was able to find more than two, suggests that there may be other policies that were not disclosed. The LHOs may need more guidance from NHC about what exactly a “policy” is.
- c. The NHC–LHO management agreement suggests that every LHO should have a policy on recovery of tenant damage repairs, but the disclosure to the Applicant included the policy only from Kikitak in Gjoa Haven.
- d. The fact that thirteen LHOs did not respond to NHC’s call for records cannot be taken as evidence that those LHOs had no responsive records. It is evidence only that they were unable or unwilling to respond to a request for information.

*A final word*

- [77]** Everyone in public housing in Nunavut, or who is applying for public housing, should be able to find, quickly and easily, an NHC or LHO policy that might affect their tenancy or their application. That is only fair. It is also the law: ATIPPA, sections 14(2) and 71(1).
- [78]** NHC has extensive responsibilities for housing in Nunavut. It is a sophisticated organization. This ATIPP application shows how hard it is even for NHC to know what policies are being applied by the LHOs. If it is this hard for NHC, it must be next to impossible for the ordinary citizen.
- [79]** I hope this decision will spur NHC to collect and publish a complete, up-to-date list of housing policies. This information should be readily accessible on the NHC website and in each LHO office, and should be written in Nunavut’s official languages, so that everyone involved in public housing – tenants, applicants and their advocates, as well as NHC and LHO staff – can know what the rules are.

## **Conclusion**

- [80]** NHC is responsible for coordinating the responses of LHOs to ATIPP requests.
- [81]** The Applicant is entitled to receive all of the records that are responsive to the narrowed request, i.e. policies, guidelines and manuals related to public housing.
- [82]** NHC’s search for responsive records was incomplete.

## **Recommendations**

- [83]** I recommend that NHC revisit its search for responsive documents from the LHOs, with special attention being paid to the thirteen LHOs that did not respond to the e-mail sent to all LHOs in April 2021. I recommend that all LHOs should be offered guidance and examples of what a “policy, guideline or manual” is, and asked again for all responsive records.
- [84]** I recommend NHC post to its website all records that meet the description in s 71 of the ATIPPA. Priority should be given to policies related to public housing. The website should be kept up-to-date as new policies are added, as old policies expire or are withdrawn, and as existing policies are amended. The objective is to ensure that tenants, applicants, advocates and staff can quickly and easily find all relevant policies, and to ensure those policies are complete, clear, and valid.
- [85]** I recommend NHC review whether NHC and LHO policies comply with Nunavut’s language laws.

Graham Steele

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