

Id.# 1

RECEIVED	COUR FÉDÉRALE FEDERAL COURT	FILED
	AOUT 10 2021 AUG 10 2021	
	AHMED LAGRANI	
MONTREAL, QC		

JR

Court File No.: T-1248-21

FEDERAL COURT

BETWEEN:

HOCKEY CANADA

Applicant

- and -

**ATTORNEY GENERAL OF CANADA and
CANADIAN HERITAGE**

Respondents

APPLICATION UNDER section 44 of the *Access to Information Act*, RSC 1985, c
A-1, as amended

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the Applicant. The relief claimed by the Applicant appears on page 3.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the Applicant. The Applicant requests that this application be heard at Montreal, in the Province of Quebec.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor or, if the Applicant is self-represented, on the Applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT
MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE
TO YOU.**

August 10, 2021

L'ORIGINAL A ÉTÉ SIGNÉ PAR
AHMED LAGRANI

Issued by: HAS SIGNED THE ORIGINAL

Address of local office: Registry of the Federal Courts
30 McGill Street
Montreal, Quebec
H2Y 3Z7

TO: The Administrator
Federal Court

AND TO: Attorney General of Canada
(To be served pursuant to Rule 133)

AND TO: Canadian Heritage
(To be served pursuant to Rule 133)

AND TO: Information Commissioner of Canada
Office of the Information Commissioner of Canada
30 Victoria Street
Gatineau, Quebec K1A 1H3

Court File No.:

FEDERAL COURT

BETWEEN:

HOCKEY CANADA LIMITED

Applicant

- and -

**ATTORNEY GENERAL OF CANADA and
CANADIAN HERITAGE**

Respondents

APPLICATION

This is an application for judicial review by Hockey Canada in respect of a decision of Canadian Heritage in file No. A-2019-00263 / JCC, communicated to the Applicant by way of a letter dated July 22, 2021 and received by the Applicant on the same day to disclose certain records to which Hockey Canada opposed to the disclosure (the “**To-Be Disclosed Confidential Records**”) pursuant to the *Access to Information Act*, RSC, 1985, c A-1 (the “**Act**” and the “**Decision**”).

THIS APPLICATION IS BROUGHT PURSUANT TO SECTION 44 OF THE ACT FOR:

1. Judicial review of Canadian Heritage’s Decision to disclose the To-Be Disclosed Confidential Records, in response to a request for information made under the Act that Canadian Heritage received and designated as file No. A-2019-00263 / JCC (the “**Access Request**”);
2. An order setting aside Canadian Heritage’s decision to disclose the To-Be Disclosed Confidential Records, in response to the Access Request, and ordering Canadian Heritage not to disclose the To-Be Disclosed Confidential Records, pursuant to section 51 of the Act;

3. In the alternative to (2), an order setting aside Canadian Heritage's decision to disclose the To-Be Disclosed Confidential Records pursuant to the Access Request, and ordering Canadian Heritage not to disclose the To-Be Disclosed Confidential Records without redacting such information contained in the Records as this Honourable Court may order;
4. An order that the To-Be Disclosed Confidential Records and evidence filed herein be sealed and treated as confidential by this Honourable Court and not be made a public part of the within Court File without further order of this Honourable Court;
5. An order granting the Applicant its costs of this Application; and
6. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE APPLICATION ARE THAT :

1. By letter dated April 29, 2021, Canadian Heritage notified the Applicant of its receipt of the Access Request, which seeks disclosure of:

“All grants applications from Hockey Canada (reporting process, financial details); how they spent the 9 million; and correspondence between Hockey Canada and any Ministers of Canadian Heritage and/or Deputy Ministers, Ministers of Sport and/or Deputy Ministers (including emails and meeting notes and reporting information) for the period of 2004 to October 18, 2019. Also, copy of the grant application guidelines and policy for the grants application made by Hockey Canada.”

(the “April 29, 2021 Letter”)

2. In its April 29, 2021 Letter, Canadian Heritage identified the records as potentially responsive to the Access Request and as containing information concerning Hockey Canada, which may fall within one or more of the exemptions found in section 20(1) of the Act (the “Records”).

3. Canadian Heritage asked the Applicant as a third party under section 27 of the Act to provide written representations as to why these Records should not be released, within 20 days of receipt of the April 29, 2021 Letter.
4. The Records contained financial and commercial information, notably with respect to financial information, per diem, unit prices and other pricing information, consistently treated by the Applicant as confidential, and the disclosure of which would prejudice the Applicant's competitive position and cause it serious financial hardship.
5. On May 17, 2021, Hockey Canada wrote a letter to Marc-André Bujold from Canadian Heritage, informing him of the opposition of Hockey Canada to the disclosure of some of the Records.
6. By letter dated July 22, 2021, Canadian Heritage provided notice to the Applicant that it would be disclosing some of the Records (the "**To-Be Disclosed Records**"), including Records to which Hockey Canada opposed to the disclosure (the "**To-Be Disclosed Confidential Records**"), barring judicial review of the Decision. For greater certainty, the To-Be Disclosed Confidential Records include any and all To-Be Disclosed Records to which Hockey Canada informed Canadian Heritage of its opposition to the disclosure in May 2021.
7. Contrary to subsection 20(1) of the Act, Canadian Heritage has decided to disclose records that contain:
 - (a) Financial, commercial, scientific and technical information that is confidential information supplied to Canadian Heritage by Hockey Canada, and which has been treated consistently in a confidential manner by Hockey Canada;
 - (b) Information the disclosure of which could reasonably be expected to result in material financial loss to Hockey Canada, or result in material financial gain to the competitors of Hockey Canada;

- (c) Information the disclosure of which could reasonably be expected to prejudice the competitive position of Hockey Canada;
 - (d) Information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of Hockey Canada.
8. Canadian Heritage has erred in fact and in law in deciding to disclose the To-Be Disclosed Confidential Records, in contravention of its duties and obligations as set out in subsection 20(1) of the Act.
 9. The Act provides that the Applicant may request that this Honourable Court take every reasonable precaution to avoid the disclosure by the Court to any person of any information or other material on the basis of which Canadian Heritage would be authorized to refuse to disclose a part of the Records requested under the Act.
 10. Sections 20(1), 25, 27, 28, 44, 47, 51 and 53 of the *Access to Information Act*.
 11. Rules 29(2), 47, 55, 133, 151, 152 and 300 et seq., 304(1)(c) of the *Federal Court Rules*.
 12. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIALS:

1. The affidavit(s) to be filed by the Applicant pursuant to the *Federal Court Rules*, and the exhibits attached thereto; and
2. Such further and other evidence as counsel may advise and this Honourable Court may permit.

THE APPLICANT REQUESTS THAT:

1. Canadian Heritage sends a certified copy of the following materials, which are in its possession, to the Applicant:
 - (a) The access to information request submitted to Canadian Heritage, together with any materials filed by the requester in support of that request;
 - (b) Any other non-privileged documents or records which relate to Canadian Heritage's decision, including but not limited to any notes, memoranda and correspondence (including but not limited to internal emails) pertaining thereto.
2. Canadian Heritage sends a certified copy of the above-noted materials to the Registry in a manner and subject to such measures that will ensure that the confidentiality of the information will be maintained until this matter can be judicially determined.

August 10, 2021

Per:



McCarthy Tétrault S.E.N.C.R.L. s.r.l.
Suite 2500
1000 De La Gauchetière Street West
Montréal (Québec) H3B 0A2

Marc-Alexandre Hudon

Email: mahudon@mccarthy.ca
Tel: 514-397-5642 / 514-241-0467
Fax: 514-875-6246

Counsel for the Applicant

Court File No. T-1E48-21

FEDERAL COURT

HOCKEY CANADA

Applicant

- and -

ATTORNEY GENERAL OF CANADA and CANADIAN
HERITAGE

Respondents

NOTICE OF APPLICATION

(Filed August 10, 2021)

McCarthy Tétrault LLP
Suite 2500
1000 De La Gauchetière Street West
Montréal (Québec) H3B 0A2
Marc-Alexandre Hudon 0630
Email: mahudon@mccarthy.ca
Tel: 514-397-5642 / 514-241-0467
Fax: 514-875-6246

Counsel for the Applicant

I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____
day of AUG 10 2021 A.D. 20 _____

Dated this _____ day of AUG 10 2021 20 _____

AHMED LAGRANI
AGENT DU GREFFE
REGISTRY OFFICER

AHMED LAGRANI
AGENT DU GREFFE