



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2015-008

October 29, 2015

Department of Municipal and Intergovernmental Affairs

Summary:

The Applicant requested from the Department of Municipal and Intergovernmental Affairs copies of correspondence from a named Third Party about a Local Service Committee and the Applicant's role in it. The Third Party objected to the disclosure on the ground that section 40 (disclosure harmful to personal privacy) prohibited it. The Commissioner agreed with the Department that the disclosure would not be an unreasonable invasion of the personal privacy of the Third Party and recommended that the information be disclosed, subject to some minor redactions of the personal information of other individuals.

Statutes Cited:

Access to Information and Protection of Privacy Act, 2015, SNL 2015, c. A-1.2, ss. 2, 40.

Authorities Relied On:

Newfoundland and Labrador OIPC Reports A-2015-007; A-2014-006, A-2009-002, A-2007-003; Ontario OIPC Order PO-3073; Alberta OIPC Order F-2014-23.

I BACKGROUND

- [1] Under the provisions of the *Access to Information and Protection of Privacy Act, 2015* (“*ATIPPA, 2015*” or “the *Act*”) the Applicant submitted a request to the Department of Municipal and Intergovernmental Affairs (“the Department”) as follows:

All correspondence between [a named Third Party] of [named community] and Regional Managers with MA, all Ministers of Municipal Affairs going back to when I first became Chairperson of the Local Service District of [named community] in 2006.

- [2] The Department was prepared to disclose the responsive records to the Applicant, with some minor redactions, but chose first to give notice to the named individual Third Party, pursuant to subsection 19(5) of the *ATIPPA, 2015*, since the records included personal information about the Third Party. The Department advised the Third Party that it did not believe that releasing the information would be harmful to her privacy rights under section 40 of the *Act*.
- [3] The Third Party complained to this Office asking that we review the decision of the Department. Attempts to resolve the complaint informally were not successful, and the matter was referred for formal investigation under subsection 44(4) of the *Act*. Both the Department and the Third Party were notified of this decision and given an opportunity to make additional written representations in support of their positions.

II DECISION

- [4] This complaint is almost identical to another complaint recently dealt with by this Office in Report A-2015-007. The previous complaint was made with regard to a different department of government (the Office of the Premier), but it involved the same Applicant, the same Third Party Complainant and a similarly-worded access request. The responsive records in these complaints are very similar – in fact, although the present matter involves some 308 pages of documents, many of the individual records are the same.
- [5] The issues in the two matters are therefore the same - whether the responsive records contain the personal information of the Third Party, and if so, whether disclosure of any of that information would be an unreasonable invasion of the Third Party’s personal privacy.

[6] I have reviewed the responsive record in this matter, and the arguments put forward in the submissions of both the Third Party and the Department. For the reasons given in my Report on the previous complaint (Report A-2015-007, a copy of which is enclosed along with this Report) I have concluded that the disclosure of the information that the Department proposes to disclose to the Applicant would not be an unreasonable invasion of the Third Party's personal privacy, or would not constitute a "disclosure" within the meaning of the *ATIPPA, 2015*.

III RECOMMENDATIONS

[7] Pursuant to section 47 of the *ATIPPA, 2015* I recommend that the Department of Municipal and Intergovernmental Affairs grant the Applicant access to the entire responsive record, excepting only the portions withheld on the basis of section 40 (personal information of other individuals).

[8] As set out in section 49(1)(b) of the *ATIPPA, 2015*, the head of the Department of Municipal and Intergovernmental Affairs must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[9] Please note that within 10 business days after receiving the decision of the Department of Municipal and Intergovernmental Affairs under section 49, the Third Party may appeal that decision to the Supreme Court of Newfoundland and Labrador Trial Division in accordance with section 54 of the *ATIPPA, 2015*. **No records should be disclosed to the Applicant until the expiration of the prescribed time for an appeal.**

[10] Dated at St. John's, in the Province of Newfoundland and Labrador, this 29th day of October, 2015.

E. P. Ring
Information and Privacy Commissioner
Newfoundland and Labrador