



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2017-027

December 6, 2017

Town of Paradise

Summary:

The Town of Paradise (the “Town”) received an access request seeking disclosure of information, including details regarding the “severance or other payments” paid out to a named individual. The Town provided the Applicant with most of the information requested but denied access to the payment information relying on sections 38 (disclosure harmful to labour relations interests of public body as employer) and 40 (disclosure harmful to personal privacy) of the *ATIPPA, 2015*. The Applicant was not satisfied with the Town’s response and filed a complaint with this Office. The Commissioner determined that sections 38 and 40 did not permit withholding the payment information. The Commissioner recommended disclosure of the payment information, but that other information contained in the record related to employment history continue to be withheld by the Town.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#),
S.N.L. 2015, c. A-1.2, sections 38 and 40.

Authorities Relied On:

OIPC NL Report [A-2017-024](#).

I BACKGROUND

- [1] The Town of Paradise (the “Town”) received an access to information request from the Applicant. The Town provided responsive records to all but one of the items in the request, Item 4:

4. How much was paid out or will be paid out in severance or other payments?

- [2] The Town refused access to “the severance or other payments” of the named individual based on section 38 (disclosure harmful to labour relations interests of a public body as employer) and section 40 (disclosure harmful to personal privacy) of the *ATIPPA, 2015*. The Applicant was not satisfied with the Town’s response and filed a complaint with this Office. The complaint proceeded to formal investigation pursuant to section 44(4) of the *ATIPPA, 2015* as informal resolution was not possible.

- [3] The Town and the Applicant’s positions are the same as those summarized in Report A-2017-024.

II DECISION

I addressed the same issues in Report A-2017-024 and my conclusions are the same here. The Town cannot rely on Section 38 to withhold an individual employee’s payment information. An unreasonable invasion of personal privacy does not arise from the disclosure of the payment information in this case. The record does however also contain information relating to employment history, the disclosure of which would result in an unreasonable invasion of personal privacy.

III RECOMMENDATIONS

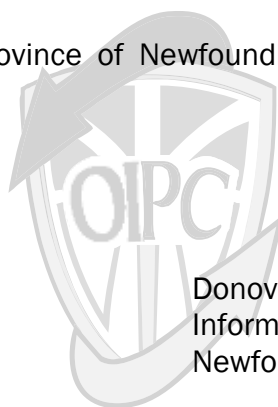
- [4] Under the authority of section 47 of the *ATIPPA, 2015* I recommend that the Town disclose the payment information to the Applicant (the highlighted information contained in

the copy of the responsive record provided to the Town along with this Report) and continue to withhold any information not highlighted in the record provided to the Town.

[5] As set out in section 49(1)(b) of the *ATIPPA, 2015*, the head of the Town must give written notice of his or her decision with respect to this recommendation to the Commissioner and to any person who was sent a copy of this Report (in this case the Applicant) within 10 business days of receiving this Report.

[6] Please note that within 10 business days of receiving the decision of the Town under section 49, the Applicant may appeal that decision to the Supreme Court of Newfoundland and Labrador Trial Division in accordance with section 54 of the *ATIPPA, 2015*.

[7] Dated at St. John's, in the Province of Newfoundland and Labrador, this 6th day of December, 2017.



Donovan Molloy, Q.C.
Information and Privacy Commissioner
Newfoundland and Labrador