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"The manner in which public bodies respond to our involvement is a key factor in how the public measures the true commitment of the government and its agencies to the principles and spirit of the legislation."

OIPC Annual Report
2009-2010

ABOVE BOARD

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In our ongoing effort to educate and inform municipalities about issues involving privacy and access to information, and about their roles and responsibilities in relation to the **Access to Information and Protection of Privacy Act (ATIPPA)**, this second edition of our newsletter offers a unique insight into the municipal coordinator role. Along with the standard resources and tips, we have asked Ms. Judy Squires, the experienced Town Clerk and **ATTIPPA** Coordinator for the Town of Portugal Cove-St. Philip's to answer some questions about her work in this area. You will also find a summary of a recent Report issued through our office that will hopefully shed light on certain topics for municipalities. As always, your feedback is welcome and encouraged as we aim to best assist you in the important work that you do. Our third edition will be published in November 2011.



Recently, the Commissioner released Report P-2011-001 wherein he considered the inclusion of personal information in public meeting agendas and minutes, as well as in documents that are tabled at a public meeting. Aside from the personal information being disclosed at the public meeting, once tabled this information remains publicly available under section 215 of the *Municipalities Act*. The Commissioner found that although the *Municipalities Act* required certain documents to be made available for public viewing, it was silent with respect to the disclosure of personal information that might be contained in these documents. Therefore, it was the Commissioner's view that the requirements of both the *Municipalities Act* and the *ATIPPA* could be met if



documents containing personal information were severed to remove the personal information prior to being tabled at a public meeting. The Commissioner also found that minutes and agendas for public meetings could also be prepared in a de-identified manner, unless the disclosure was necessary as per section 39(1)(c) and 40(b). Where this practice was not reasonable in the circumstances of a particular situation, the Commissioner concluded that personal information should be discussed at a privileged meeting of Council. Please see Report P-2011-001 for full details, which can be found on our website under Commissioner's Reports/Privacy Reports.

The Municipal Coordinator Interview

Judy Squires has been working in municipal government for 21 years and currently holds the position of Town Clerk for the Town of Portugal Cove-St. Philip's. In this role she has also been processing ATIPP requests since 2006, starting as an Alternate Coordinator until she became Town Clerk in 2009, at which time she took on the role of ATIPP Coordinator. Most of Ms. Squires' training was obtained through seminars provided by the ATIPP office and sessions offered at the annual provincial conferences for the Professional Municipal Administrators Association. This training has been supplemented by practical experience as her municipality has received approximately 80 requests, some of which were anything but routine and were rather quite challenging.

The OIPC: Can you tell us about some of the biggest challenges you have or continue to face in your role as ATIPP Coordinator?

JS: Personally, I found that in the early days of ATIPPA, each application was a bit daunting as it was new territory. I quickly found that requests were not of the 'cookie cutter' variety and each time an application was received it was definitely a new challenge and learning experience. One of the biggest challenges was educating others in the organization about the legislation and ensuring that everyone applies or follows the same guidelines when it comes to releasing and/or protecting information. For the most part, employees are becoming more familiar with the ATIPPA legislation and the process involved.

OIPC: Can you describe the most common or typical ATIPPA requests that you receive?

JS: Quite a few of the requests for my organization are concerning planning and development issues. Applicants are generally seeking more detailed information than what is provided at Council meetings concerning development that is taking place, whether it impacts them or not. We have also had a significant number of requests concerning council operations where applicants are seeking information that is not available for public inspection under the guidelines established in the *Municipalities Act*.

OIPC: Has the legislation and/or your role as ATIPP Coordinator led to any changes in how the Town of Portugal Cove-St. Philips carries out its business?

JS: We have made significant changes to internal operations when it comes to protecting the privacy of our residents and releasing information. All departments within our organization recognize that we cannot give out information that persons are not entitled to receive without going through the proper process. We are also more vigilant in completing minutes and committee meeting reports so as to protect a person's privacy as much as possible but at the same time provide as much information as is necessary for the public concerning issues that may be of interest or concern to them.

The Municipal Coordinator Interview (cont'd)...

OIPC: What are your most common complaints about your role as ATIPP Coordinator?

JS: I would have to say dealing with requests of the 'any and all records' variety that require research of large volumes of records. These requests may literally have to go to every department for research and are quite time consuming for everyone involved. In being more comfortable in my role as ATIPP Coordinator, I have found that contacting the applicant to clarify what it is they are looking for (which is always confirmed in writing) sometimes narrows down the request. This extra step, in our duty to assist as ATIPP Coordinators, sometimes helps expedite processing the request to the benefit of both the applicant and myself and also helps reduce costs to the applicant.

OIPC: What tools or support do you engage most frequently in carrying out your ATIPP Coordinator role?

JS: My most valuable resource would definitely be access to the knowledgeable staff at the ATIPP office. In times when I have a particularly challenging request, I appreciate their guidance. I also find that no matter how many requests you process, the *ATIPPA* Policy and Procedures Manual is a valuable resource as well. I also try to attend any *ATIPPA* training and information sessions that may become available as there is always something new to learn!

Right to Know Week 2011



The purpose of Right to Know (RTK) Week is to raise awareness about people's right to access government information while promoting freedom of information as essential to both democracy and good governance.

In 2011, the Canadian RTK Week will take place from **September 26 to September 30**. This year marks the sixth year that Canadians have celebrated RTK Week, and there are a great number of events planned coast to coast, including several in this province, ranging from the RTK Week Essay Competition and public information fair, to presentations and networking events.

Internationally, RTK Day began on September 28, 2002, in Sofia, Bulgaria at an international meeting of access to information advocates who proposed that a day be dedicated to the promotion of freedom of information worldwide. It is now celebrated globally and continues to grow and expand each year, both internationally and within Canada, with more participants and new exciting events being added.

For more information on RTK Week and local events, please visit the following sites:

<http://www.oipc.nl.ca/righttoknow.htm> <http://www.righttoknow.ca/en/content/default.asp>



Resource List

<http://www.justice.gov.nl.ca/just/info/schedule.html> (ATIPPA, Regulations and Fee Schedule)

<http://www.justice.gov.nl.ca/just/department/branches/division/atipp.html> (ATIPP Office)

http://www.justice.gov.nl.ca/just/info/municipalities_faq.pdf (Municipalities FAQ's)

http://www.justice.gov.nl.ca/just/info/access_policy_and_procedures_manual.pdf (Access Policy & Procedures Manual)

http://www.justice.gov.nl.ca/just/info/privacy_policy_and_procedures_manual.pdf (Privacy Policy & Procedures Manual)

http://www.justice.gov.nl.ca/just/atipp_training/index.html (ATIPP Training)

<http://www.oipc.nl.ca/accessreports.htm> (OIPC Commissioner's Reports on Access to Information)

<http://www.oipc.nl.ca/privacyreports.htm> (OIPC Commissioner's Reports on Privacy)

<http://www.righttoknow.ca/en/content/default.asp> (Right to Know Week 2011)

Tools to Help Your Municipality Comply with ATIPPA

When you are trying to figure out how to apply one of the sections of the ATIPPA, one option available to you is to look at some of our past reports. Commissioner's Reports are published at www.oipc.nl.ca and they can give you some valuable insight into how the Commissioner has interpreted the different provisions of the ATIPPA in the past. Some of these past reports involve municipalities, which may cover some of the same situations you face every day.

You can even look up each reference to a particular section of the ATIPPA by viewing our Table of Concordance, which lists each Report that dealt with a particular section of the Act.



TIPS

- ◆ An employee includes persons retained under a contract to perform services for the public body (i.e. employees, volunteers, students, consultants, third parties, etc.) [section 2(e)].
- ◆ Third parties contracted to perform services for a municipality are functioning in the place of the municipality and therefore any records created by the third party are subject to the same access and privacy rules as the municipality. Therefore contracts should include privacy, access and retention clauses. [section 2(e)].