



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2012-005

March 30, 2012

Town of Portugal Cove-St. Philip's

Summary:

The Applicant submitted an access to information request to the Town of Portugal Cove-St. Philip's for the name of the individual who had made a previous access request to the Town. The Town refused the request pursuant to section 30 of the *Access to Information and Protection of Privacy Act*. The Commissioner determined that the Town's application of section 30 was appropriate and had no recommendations.

Statutes Cited:

Access to Information and Protection of Privacy Act, S.N.L. 2002, c. A-1.1, as amended, sections 30(1), 30(2)(b) and 2(o)(i).

BACKGROUND

[1] On January 17, 2012 the Town of Portugal Cove-St. Philip's (the "Town") received an access request for the name of "*the person who picked up and paid \$5.00 for Receipt 097547 Building & Dev Application form.*" Essentially, this was a request for access to the name of the person who had previously filed an access request for a copy of a receipt and development application.

[2] On that same day the Town responded in writing to the Applicant that:

The name of the applicant who made the access request is not available to you in accordance with Section 30(1) which states "the Head of a public body shall refuse to disclose personal information to an applicant". Personal information is defined in Section 2o(i) of the Act, as "individual's name, address or telephone number".

[3] This Office received a Request for Review from the Applicant on January 27, 2012.

[4] The matter could not be resolved by informal means and both the Applicant and the Town were advised that the Request for Review had been referred for formal investigation pursuant to subsection 46(2) of the *ATIPPA*, and were given the opportunity to provide written submissions to this Office in accordance with section 47 of the *Act*. The Applicant made no formal submission.

II TOWN SUBMISSION

[5] In its submission the Town reiterated the facts as set out above and added that it did attempt to obtain the original applicant's consent to release the information. This consent was refused.

III DISCUSSION

[6] The relevant portions of subsections 30(1) and (2) of the *Act* state:

30(1) The head of a public body shall refuse to disclose personal information to an applicant.

(2) Subsection (1) does not apply where

...

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure.

[7] Paragraph 2(o)(i) of the *Act* defines “personal information” as “recorded information about an identifiable individual, including the individual’s name...”.

[8] The application of section 30(1) of the *Act* by the Town in this case was correct. This section clearly intends to protect the names of individuals contained within Town records where release is not authorized under section 30(2) or other legislation. This includes the name of a person who files an access to information request.

[9] Although there was no obligation to do so, as part of its effort to assist the Applicant, the Town contacted the original applicant and sought consent to release his/her personal information. Had that consent been forthcoming, the Town could have released the name under paragraph 30(2)(b).

IV CONCLUSION AND RECOMMENDATIONS

[10] The Town correctly applied the *ATIPPA* and did not fail in its duty to assist. I, therefore, have no recommendations to make.

[11] Although I have made no recommendations, under the authority of section 50 of the *ATIPPA*, I direct the head of the Town to write to this Office and to the Applicant within 15 days after receiving this Report to indicate their final decision with respect to this Report.

[12] In addition, I hereby notify the Applicant, in accordance with section 49(2) of the *ATIPPA*, that they have a right to appeal the decision of the Town to the Supreme Court of Newfoundland and Labrador, Trial Division in accordance with section 60. The Applicant must file any appeal within 30 days after receiving a decision of the Town referenced above.

[13] Dated at St. John’s, in the Province of Newfoundland and Labrador, this 30th day of March 2012.

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