

Email: 28(1)

August 31, 2018

CONFIDENTIAL

28(1)

Dear 28(1) :

Re: Access to Information Request #2018-033 – Travellers Building

This is further to your access to information request received by the City on July 9, 2018, amended as follows:

“We are requesting records from and after January 1, 2001, up to the present day. The owners of the Travellers Building are 240 Argyle Street Properties Inc. and/or Michael Lee.

1. Any records in the control or possession of the City of Regina, council, or any committee or department related to advice given or recommendations made to the City of Regina, council, or a committee or department regarding the Travellers Building, 1833 Broad Street, Regina, SK, a municipal heritage property (the “Travellers Building”).
2. Any records in the control or possession of the City of Regina, council, or any committee or department related to financial resources or assistance provided to the owner of the Travellers Building, through the Heritage Building Rehabilitation Program or council or any committee or department, to rehabilitate or preserve the Travellers Building.
3. Any records in the control or possession of the City of Regina, council, or any committee or department related to temporary stop orders issued by council or any committee or department, requiring the owner of the Travellers Building to cease activities that might result in damage to or destruction of the Travellers Building, pursuant to s.29(1) of the Heritage Property Act.
4. Any records in the control or possession of the City of Regina, council, or any committee or department related to orders requiring the owner of the

- Travellers Building to take steps to preserve the Travellers Building, pursuant to s.31 of the Heritage Property Act.
5. Any records in the control or possession of the City of Regina, council, or any committee or department related to inspections of the Travellers Building authorized by council or any other committee or department, pursuant to s.34 of the Heritage Property Act or otherwise.
 6. Any records in the control or possession of the City of Regina, council, or any committee or department, related to any order exempting the owner of the Travellers Building from complying with any fire or building code regulations.
 7. Any records in the control or possession of the City of Regina, council, or any committee or department related to safety complaints or other complains by citizens in respect of the Travellers Building, made to or kept with the Building Standards Branch, council or any committee or department.”
 8. Any records in the control or possession of the City of Regina, council, or any committee or department, related to any request or inquiry made by the owner to use the location of the Travellers Building for any alternative use including, for example, as a parking facility.”

We have processed your access request and are providing a partial release of records relevant to the request. Pursuant to section 8 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP), some of the information contained in the attached has been redacted. The redaction is pursuant to:

- 3(1)(a): Published material that is available for purchase by the public.
- 15(1)(b): Agendas, minutes from meetings including drafts 16(1)(a)(b): Advice, proposals, recommendations, consultations and deliberations involving officers or employees of the local authority.
- 16(1)(a)(b): Advice, proposals, recommendations, consultations and deliberations involving officers or employees of the local authority.
- 16(1)(c): Positions, plans and instructions regarding contractual negotiations by or on behalf of the City.
- 18(1)(a): Trade secrets of a third party.
- 18(1)(b)(c): Third party financial and commercial information supplied in confidence to the City which could reasonably be expected to interfere with contractual and/or other negotiations.
- 21(a)(b)(c): Information that is solicitor-client privileged.
- 28(1): Protection of personal information from disclosure.
- Non-responsive: Information that is not relevant and does not reasonably relate to the request.

Access to the records will be provided to you in One Drive. An email will be sent with further instructions regarding accessing the records.

Some information relevant to your request is not being released to you at this time. In my letter dated June 28, 2018 you were advised that third party notification was required. The City has served the required notice to third parties to advise they have 20 days to request a review by the Office of the Information and Privacy Commissioner. We will be communicating with you in that regard soon.

You will be provided access to the records in accordance with the decision after 20 days have elapsed unless you or the third party requests a review under section 38 LA FOIP. Allowing time for delivery of this notice to the third party, the 20 days will expire on September 17, 2018. If a review is requested, the records will be withheld until after the review is complete.

Pursuant to sections 36(2)(a) and 38 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) you and any third parties have 20 days from receipt of this notice to request a review of the City's decision by the Saskatchewan Information and Privacy Commissioner.

I have included a copy of all above-noted sections of the Act.

If you wish to exercise your right to request a review of this decision, you may complete a Request for Review form and forward it to the Saskatchewan Information and Privacy Commissioner within one year of this notice. A copy of this form can be found at <http://www.qp.gov.sk.ca/documents/Forms/L27-1R1-B.pdf> or you may contact the Saskatchewan Information and Privacy Commissioner at 306-787-8350.

Please be advised responses to requests may be published on the Regina Open Data website at the City's discretion. All information/data is handled in accordance with LA FOIP. Your identity as the applicant is protected. Published requests will be available on the Open Data website at <http://open.regina.ca/> after a minimum of three business days following release to you.

If you have any questions, please contact Cindy Howden at 306-777-7263 or by email at lafoip@regina.ca.

Yours truly,



Jim Nicol
City Clerk

Jn/ch

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(4) Where an application is made with respect to a record that is exempt from access pursuant to this Act, the head may refuse to confirm or deny that the record exists or ever did exist.

(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

1990-91, c.L-27.1, s.7.

Severability

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

1990-91, c.L-27.1, s.8.

Fee

9(1) An applicant who is given notice pursuant to clause 7(2)(a) is entitled to obtain access to the record on payment of the prescribed fee.

(2) Where the amount of fees to be paid by an applicant for access to records is greater than a prescribed amount, the head shall give the applicant a reasonable estimate of the amount, and the applicant shall not be required to pay an amount greater than the estimated amount.

(3) Where an estimate is provided pursuant to subsection (2), the time within which the head is required to give written notice to the applicant pursuant to subsection 7(2) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.

(4) Where an estimate is provided pursuant to subsection (2), the head may require the applicant to pay a deposit of an amount that does not exceed one-half of the estimated amount before a search is commenced for the records for which access is sought.

(5) Where a prescribed circumstance exists, the head may waive payment of all or any part of the prescribed fee.

1990-91, c.L-27.1, s.9.

Manner of access

10(1) Where an applicant is entitled to access pursuant to subsection 9(1), the head shall provide the applicant with access to the record in accordance with this section.

(2) A head may give access to a record:

- (a) by providing the applicant with a copy of the record; or
- (b) where it is not reasonable to reproduce the record, by giving the applicant an opportunity to examine the record.

(3) A head may give access to a record that is a microfilm, film, sound recording, machine-readable record or other record of information stored by electronic means:

- (a) by permitting the applicant to examine a transcript of the record;

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- (xv) **Repealed.** 2002, c.R-8.2, s.120.
- (xvi) **Repealed.** 2002, c.R-8.2, s.83.
- (xvii) any board, commission or other body that:
 - (A) receives more than 50% of its annual budget from the Government of Saskatchewan or a government institution; and
 - (B) is prescribed;
- (g) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (h) "personal information" means personal information within the meaning of section 23;
- (i) "prescribed" means prescribed in the regulations;
- (j) "record" means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include computer programs or other mechanisms that produce records;
- (k) "third party" means a person, including an unincorporated entity, other than an applicant or a local authority.

1990-91, c.L-27.1, s.2; 1993, c.55, s.180; 2002, c.R-8.2, s.83 and s.120; 2002, c.C-11.1, s.389; 2005, c.M-36.1, s.435; 2010, c.N-5.2, s.449; 2014, c.S-32.21, s.34; 2015, c.21, s.64; 2017, c.P-30.3, s.11-1; 2017, c.17, s.3.

Application

3(1) This Act does not apply to:

- (a) published material or material that is available for purchase by the public;
- (b) material that is a matter of public record; or
- (c) material that is placed in the custody of a local authority by or on behalf of persons or organizations other than the local authority for archival purposes.

(2) This Act binds the Crown.

1990-91, c.L-27.1, s.3.

Existing rights preserved

4 This Act:

- (a) complements and does not replace existing procedures for access to information or records in the possession or under the control of a local authority;
- (b) does not in any way limit access to the type of information or records that is normally available to the public;
- (c) does not limit the information otherwise available by law to a party to litigation;

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- (l) reveal technical information relating to weapons or potential weapons; or
 - (m) reveal the security arrangements of particular vehicles, buildings or other structures or systems, including computer or communication systems, or methods employed to protect those vehicles, buildings, structures or systems.
- (2) Subsection (1) does not apply to a record that:
- (a) provides a general outline of the structure or programs of a law enforcement agency; or
 - (b) reports, by means of statistical analysis or otherwise, on the degree of success achieved in a law enforcement program.

1990-91, c.L-27.1, s.14; 2003, c.29, s.33 2017,
c.17, s.8.

Documents of a local authority

15(1) A head may refuse to give access to a record that:

- (a) contains a draft of a resolution or bylaw; or
- (b) discloses agendas or the substance of deliberations of meetings of a local authority if:
 - (i) an Act authorizes holding the meetings in the absence of the public; or
 - (ii) the matters discussed at the meetings are of such a nature that access to the records could be refused pursuant to this Part or Part IV.

(2) Subject to section 29, a head shall not refuse to give access pursuant to subsection (1) to a record where the record has been in existence for more than 25 years.

1990-91, c.L-27.1, s.15.

Advice from officials

16(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (a) advice, proposals, recommendations, analyses or policy options developed by or for the local authority;
- (b) consultations or deliberations involving officers or employees of the local authority;
- (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the local authority, or considerations that relate to those negotiations;
- (d) plans that relate to the management of personnel or the administration of the local authority and that have not yet been implemented; or
- (e) information, including the proposed plans, policies or projects of the local authority, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.

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- (d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the local authority;
 - (e) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the local authority, or considerations that relate to those negotiations;
 - (f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the local authority; or
 - (g) information, the disclosure of which could reasonably be expected to result in an undue benefit or loss to a person.
- (2) A head shall not refuse, pursuant to subsection (1), to give access to a record that contains the results of product or environmental testing carried out by or for the local authority, unless the testing was conducted:
- (a) as a service to a person, a group of persons or an organization other than the local authority, and for a fee; or
 - (b) as preliminary or experimental tests for the purpose of:
 - (i) developing methods of testing; or
 - (ii) testing products for possible purchase.
- (3) The head of the University of Saskatchewan, the University of Regina or a facility designated as a hospital or a health centre pursuant to *The Provincial Health Authority Act* may refuse to disclose details of the academic research being conducted by an employee of the university, hospital or health centre, as the case may be, in the course of the employee's employment.
- (4) Notwithstanding subsection (3), where possible, the head of the University of Saskatchewan, the University of Regina or a facility designated as a hospital or a health centre pursuant to *The Provincial Health Authority Act* shall disclose:
- (a) the title of; and
 - (b) the amount of funding being received with respect to;
- the academic research mentioned in subsection (3).

1990-91, c.L-27.1, s.17; 2002, c.R-8.2, s.105;
2017, c.P-30.3, s.11-1.

Third party information

18(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to the local authority by a third party;

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- (c) information, the disclosure of which could reasonably be expected to:
 - (i) result in financial loss or gain to;
 - (ii) prejudice the competitive position of; or
 - (iii) interfere with the contractual or other negotiations of;
a third party; or
 - (d) a statement of a financial account relating to a third party with respect to the provision of routine services from a local authority.
- (2) A head may give access to a record that contains information described in subsection (1) with the written consent of the third party to whom the information relates.
- (3) Subject to Part V, a head may give access to a record that contains information described in clauses (1)(b) to (d) if:
- (a) disclosure of that information could reasonably be expected to be in the public interest as it relates to public health, public safety or protection of the environment; and
 - (b) the public interest in disclosure could reasonably be expected to clearly outweigh in importance any:
 - (i) financial loss or gain to;
 - (ii) prejudice to the competitive position of; or
 - (iii) interference with contractual or other negotiations of;
a third party.

1990-91, c.L-27.1, s.18.

Testing procedures, tests and audits

19 A head may refuse to give access to a record that contains information relating to:

- (a) testing or auditing procedures or techniques; or
- (b) details of specific tests to be given or audits to be conducted;

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

1990-91, c.L-27.1, s.19.

Danger to health or safety

20 A head may refuse to give access to a record if the disclosure could threaten the safety or the physical or mental health of an individual.

1990-91, c.L-27.1, s.20.

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Solicitor-client privilege

21 A head may refuse to give access to a record that:

- (a) contains any information that is subject to any privilege that is available at law, including solicitor-client privilege;
- (b) was prepared by or for legal counsel for the local authority in relation to a matter involving the provision of advice or other services by legal counsel; or
- (c) contains correspondence between legal counsel for the local authority and any other person in relation to a matter involving the provision of advice or other services by legal counsel.

1990-91, c.L-27.1, s.21; 2017, c.17, s.9.

Confidentiality provisions in other enactments

22(1) Where a provision of:

- (a) any other Act;
- (b) a regulation made pursuant to any other Act; or
- (c) a resolution or bylaw;

that restricts or prohibits access by any person to a record or information in the possession or under the control of a local authority conflicts with this Act or the regulations made pursuant to it, the provisions of this Act and the regulations made pursuant to it shall prevail.

(2) Subject to subsection (3), subsection (1) applies notwithstanding any provision in the other Act, regulation, resolution or bylaw that states that the provision is to apply notwithstanding any other Act or law.

(3) Subsection (1) does not apply to:

- (a) *The Health Information Protection Act*;
- (a.01) Part VIII of *The Vital Statistics Act, 2009*;
- (a.1) any prescribed Act or prescribed provisions of an Act; or
- (b) any prescribed regulation or prescribed provisions of a regulation;

and the provisions mentioned in clauses (a), (a.01), (a.1) and (b) shall prevail.

1990-91, c.L-27.1, s.22; 1999, c.H-0.021, s.68;
2009, c.32, s.7.

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Standard of accuracy

26 A local authority shall ensure that personal information being used by the local authority for an administrative purpose is as accurate and complete as is reasonably possible.

1990-91, c.L-27.1, s.26.

Use of personal information

27 No local authority shall use personal information under its control without the consent, given in the prescribed manner, of the individual to whom the information relates, except:

- (a) for the purpose for which the information was obtained or compiled, or for a use that is consistent with that purpose; or
- (b) for a purpose for which the information may be disclosed to the local authority pursuant to subsection 28(2).

1990-91, c.L-27.1, s.27.

Disclosure of personal information

28(1) No local authority shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 29.

(2) Subject to any other Act or regulation, personal information in the possession or under the control of a local authority may be disclosed:

- (a) for the purpose for which the information was obtained or compiled by the local authority or for a use that is consistent with that purpose;
- (b) for the purpose of complying with:
 - (i) a subpoena or warrant issued or order made by a court, person or body that has the authority to compel the production of information; or
 - (ii) rules of court that relate to the production of information;
- (c) to the Attorney General for Saskatchewan or to his or her legal counsel for use in providing legal services to the Government of Saskatchewan or a government institution;
- (d) to legal counsel for a local authority for use in providing legal services to the local authority;
- (e) for the purpose of enforcing any legal right that the local authority has against any individual;
- (f) for the purpose of locating an individual in order to collect a debt owing to the local authority by that individual or make a payment owing to that individual by the local authority;

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(2) Representations made by a third party pursuant to clause (1)(b) shall be made in writing unless the head waives that requirement, in which case they may be made orally.

1990-91, c.L-27.1, s.35.

Decision

36(1) After a third party has been given an opportunity to make representations pursuant to clause 35(1)(b), the head shall, within 30 days after the notice is given:

- (a) decide whether or not to give access to the record or part of the record; and
- (b) give written notice of the decision to the third party and the applicant.

(2) A notice given pursuant to clause (1)(b) is to include:

- (a) a statement that the third party and applicant are entitled to request a review pursuant to section 38 within 20 days after the notice is given; and
- (b) in the case of a decision to give access, a statement that the applicant will be given access to the record or to the part of it specified unless, within 20 days after the notice is given, the third party requests a review pursuant to section 38.

(3) Where, pursuant to clause (1)(a), the head decides to give access to the record or a specified part of it, the head shall give the applicant access to the record or the specified part unless, within 20 days after a notice is given pursuant to clause (1)(b), a third party requests a review pursuant to section 38.

(4) A head who fails to give notice pursuant to clause (1)(b) is deemed to have given notice, on the last day of the period set out in subsection (1), of a decision to refuse to give access to the record.

1990-91, c.L-27.1, s.36.

PART VI
Review and Appeal

Interpretation of Part

37 In this Part, "court" means Her Majesty's Court of Queen's Bench for Saskatchewan.

1990-91, c.L-27.1, s.37.

Application for review

38(1) Where:

- (a) an applicant is not satisfied with the decision of a head pursuant to section 7, 12 or 36;
- (a.1) an applicant is not satisfied that a reasonable fee was estimated pursuant to subsection 9(2);

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(a.2) an applicant believes that all or part of the fee estimated should be waived pursuant to subsection 9(5);

(a.3) an applicant believes that an application was transferred to another local authority pursuant to subsection 11(1) and that local authority did not have a greater interest;

(a.4) an individual believes that his or her personal information has not been collected, used or disclosed in accordance with this Act or the regulations;

(b) a head fails to respond to an application for access to a record within the required time; or

(c) an applicant requests a correction of personal information pursuant to clause 31(1)(a) and the correction is not made;

the applicant or an individual may apply in the prescribed form and manner to the commissioner for a review of the matter.

(2) An applicant or an individual may make an application pursuant to subsection (1) within one year after being given written notice of the decision of the head or of the expiration of the time mentioned in clause (1)(b).

(3) A third party may apply in the prescribed form and manner to the commissioner for a review of a decision pursuant to section 36 to give access to a record that affects the interest of the third party.

(4) A third party may make an application pursuant to subsection (3) within 20 days after being given notice of the decision.

1990-91, c.L-27.1, s.38; 2017, c.17, s.14.

Review or refusal to review

39(1) Where the commissioner is satisfied that there are reasonable grounds to review any matter set out in an application pursuant to section 38, the commissioner shall review the matter.

(2) The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

(a) is frivolous or vexatious;

(a.1) does not affect the applicant or individual personally;

(a.2) has not moved forward as the applicant or individual has failed to respond to the requests of the commissioner;

(a.3) concerns a local authority that has an internal review process that has not been used;

(a.4) concerns a professional who is governed by a professional body that regulates its members pursuant to an Act, and a complaints procedure available through the professional body has not been used;