

Email: 28(1)

September 9, 2017

28(1)

Dear 28(1) :

Re: Access to Information Request #2017-061 – Environmental 445 Winnipeg St.

This is further to your access to information request received by the City on June 30, 2017 interpreted as follows:

“All environmental records related to the site bearing civic address 445 Winnipeg St., Regina, SK for the period from 1998 to 2017 including emails and draft reports.”

We have processed your access request and some of the records relevant to the request are attached. Pursuant to section 8 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LAFOIPP), some of the information contained in the attached has been deleted for the following reason(s):

- s14(1)(d) – Law enforcement and investigations - release could be injurious to the local authority in the conduct of existing legal proceedings;
- s16(1)(a)(c) – Advice from Officials which could reasonably be expected to disclose:
 - advice, proposals, recommendations, analyses or policy options developed by or on behalf of the local authority;
 - positions, plans, procedures, criteria or instructions developed for contractual or other negotiations by or on behalf of the local authority, or considerations that relate to these negotiations.
- s18(1)(b)(c) – Third party information - information supplied in confidence, information the disclosure of which could reasonably be expected to result in financial loss or gain or interfere with the contractual or other negotiations of a third party;
- s21(a)(b) &(c)– Solicitor- client privilege.
- S28(1) – Disclosure of personal information.

We acknowledge that the City has other records which are relevant to your request. We have reviewed those records requested and are denying access to them pursuant to sections 14(1)(d), 17(1)(d)(e), 18(1)(b)(c) and 21(a)(b) & (c) of *The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP)* as well as the recommendations of the Saskatchewan Information and Privacy Commissioner in his report LA-2014-003.

The release of these records is denied for the following reasons:

- s14(1)(d) – Law enforcement and investigations – release could be injurious to the local authority in the conduct of existing legal proceedings;
- s17(1)(d)(e) – Economic and other interests – disclosure could reasonably be expected to interfere with contractual or other negotiations of the local authority. Access may disclose 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;
- s18(1)(b)(c) – Third party information - information supplied in confidence, information the disclosure of which could reasonably be expected to result in financial loss or gain or interfere with the contractual or other negotiations of a third party;
- s21(a)(b) &(c)– Solicitor - client privilege.

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

If you wish to exercise your right to request a review of this decision, you may do so by completing a Request for Review form and forwarding 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 Office of the 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 LAFOIPP. 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 lafoipp@regina.ca.

Yours truly,

A handwritten signature in black ink, appearing to read 'Erna Hall', written in a cursive style.

Erna Hall
Deputy City Clerk

eh/ch

Enclosure(s)

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

7
c. L-27.1

(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;

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

9
c. L-27.1

(2) A head who extends a period pursuant to subsection (1) shall give notice of the extension to the applicant within 30 days after the application is made.

(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

1990-91, c.L-27.1, s.12.

PART III
Exemptions

Records from other governments

13(1) A head shall refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from:

- (a) the Government of Canada or its agencies, Crown corporations or other institutions;
- (b) the Government of Saskatchewan or a government institution;
- (c) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;
- (d) the government of a foreign jurisdiction or its institutions; or
- (e) an international organization of states or its institutions;

unless the government or institution from which the information was obtained consents to the disclosure or makes the information public.

(2) A head may refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from another local authority or a similar body in another province or territory of Canada.

1990-91, c.L-27.1, s.13.

Law enforcement and investigations

14(1) A head may refuse to give access to a record, the release of which could:

- (a) prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;
- (a.1) prejudice, interfere with or adversely affect the detection, investigation or prevention of an act or omission that might constitute a terrorist activity as defined in the *Criminal Code*;
- (b) be injurious to the enforcement of:
 - (i) an Act or a regulation;
 - (ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or
 - (iii) a resolution or bylaw;

10

c. L-27.1

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

- (c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;
 - (d) be injurious to the local authority in the conduct of existing or anticipated legal proceedings;
 - (e) reveal investigative techniques or procedures currently in use or likely to be used;
 - (f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or a law enforcement matter;
 - (g) deprive a person of a fair trial or impartial adjudication;
 - (h) facilitate the escape from custody of an individual who is under lawful detention;
 - (i) reveal law enforcement intelligence information;
 - (j) facilitate the commission of an offence or tend to impede the detection of an offence;
 - (k) interfere with a law enforcement matter or disclose information respecting a law enforcement matter;
 - (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.

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.

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

11
c. L-27.1

(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.
- (2) This section does not apply to a record that:
- (a) has been in existence for more than 25 years;
 - (b) is an official record that contains a statement of the reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function;
 - (c) is the result of product or environmental testing carried out by or for a local authority, unless the testing was conducted:
 - (i) as a service to a person, a group of persons or an organization other than the local authority, and for a fee; or
 - (ii) as preliminary or experimental tests for the purpose of:
 - (A) developing methods of testing; or
 - (B) testing products for possible purchase;
 - (d) is a statistical survey;
 - (e) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal; or
 - (f) is:
 - (i) an instruction or guide-line issued to the officers or employees of a local authority; or

12

c. L-27.1

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

- (ii) a substantive rule or statement of policy that has been adopted by a local authority for the purpose of interpreting an Act, regulation, resolution or bylaw or administering a program or activity of the local authority.
- (3) A head may refuse to give access to any report, statement, memorandum, recommendation, document, information, data or record, within the meaning of section 10 of *The Evidence Act*, that, pursuant to that section, is not admissible as evidence in any legal proceeding.

1990-91, c.L-27.1, s.16; 2006, c.19, s.10.

Economic and other interests

17(1) Subject to subsection (3), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (a) trade secrets;
 - (b) financial, commercial, scientific, technical or other information:
 - (i) in which the local authority has a proprietary interest or a right of use; and
 - (ii) that has monetary value or is reasonably likely to have monetary value;
 - (c) scientific or technical information obtained through research by an employee of the local authority, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;
 - (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.

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

13

c. L-27.1

(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 Regional Health Services 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 Regional Health Services 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.

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;
- (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.

14

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

c. L-27.1

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.

Solicitor-client privilege

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

- (a) contains information that is subject to 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.

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.

LOCAL AUTHORITY FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY

17

c. L-27.1

Purpose of information

24 No local authority shall collect personal information unless the information is collected for a purpose that relates to an existing or proposed program or activity of the local authority.

1990-91, c.L-27.1, s.24.

Manner of collection

25(1) A local authority shall, where reasonably practicable, collect personal information directly from the individual to whom it relates.

(2) A local authority that collects personal information that is required by subsection (1) to be collected directly from an individual shall, where reasonably practicable, inform the individual of the purpose for which the information is collected.

(3) Subsections (1) and (2) do not apply where compliance with them might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected.

1990-91, c.L-27.1, s.25.

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;