



REVIEW REPORT 063-2017

Saskatchewan Government Insurance

May 30, 2017

Summary:

On the basis that it qualified as personal information, Saskatchewan Government Insurance (SGI) denied access to records responsive to the Applicant's request for the name and address of an owner of a vehicle with a particular Vehicle Identification Number (VIN). The Applicant suspected a fraudulent duplication of the VIN. The Commissioner reluctantly found that the information did not qualify as personal information pursuant to subsection 24(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner was consistent with a ruling from the Saskatchewan Court of Appeal. The Commissioner recommended that SGI request the Ministry of Justice study an amendment to FOIP.

I BACKGROUND

- [1] On March 21, 2017, Saskatchewan Government Insurance (SGI) received an access to information request for the name and address of an owner of a vehicle with a particular Vehicle Identification Number (VIN). The Applicant suspected a fraudulent duplication of the VIN.
- [2] SGI responded to the Applicant on March 22, 2017. It informed the Applicant that access was denied pursuant to subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP) because the information constituted personal information.

[3] The Applicant was dissatisfied with the response. On March 27, 2017, he requested a review by my office. On March 28, 2017, my office provided notification of our intention to undertake a review.

II RECORDS AT ISSUE

[4] The record at issue is a one page document that is a print out from the AutoFund database. The top of the page lists the VIN that the Applicant is seeking, the status of the VIN and the year and make of the vehicle. Below this information, there is a table with seven entries. The fields in the table are as follows: plate number, class, business transaction identification number, customer number, customer name, customer address, start and end date.

III DISCUSSION OF THE ISSUES

[5] SGI is a government institution pursuant to subsection 2(1)(d)(ii) of FOIP.

1. Did SGI appropriately apply subsection 29(1) of FOIP to the record?

[6] Subsection 29(1) of FOIP provides:

29(1) No government institution 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 30.

[7] In order for subsection 29(1) to apply, the information severed in the record must first be found to qualify as “personal information” pursuant to subsection 24(1) of FOIP. In its submission to my office, SGI did not specifically indicate how the information contained in the record qualified as personal information. However, the information on the sheet would seem to fit under subsections 24(1)(b), (d), (e), (j) and (k) of FOIP. These subsections provide:

24(1) Subject to subsections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(d) any identifying number, symbol or other particular assigned to the individual, other than the individual’s health services number as defined in *The Health Information Protection Act*;

(e) the home or business address, home or business telephone number or fingerprints of the individual;

...

(j) information that describes an individual’s finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

(ii) the disclosure of the name itself would reveal personal information about the individual.

[8] However, subsection 24(2)(e) of FOIP provides:

(2) “**Personal information**” does not include information that discloses:

...

(e) details of a licence, permit or other similar discretionary benefit granted to an individual by a government institution;.

[9] SGI has indicated that the following information is collected to issue a Class LV vehicle registration:

Customer information includes last name, first name, middle name and mailing address.

SGI records the description of the documents presented as proof, such as a birth certificate. This includes the number the document has been assigned by the issuing agent (such as the Birth Certificate number issued by Vital Statistics). SGI records the issuing jurisdiction. SGI does not scan and keep copies of these documents.

Optional information that the customer may voluntarily provide to SGI includes telephone numbers (home, work and/or cellular), fax number, e-mail address, Talkmail and/or a toll free number.

Vehicle Registration Data Elements include registration eligibility exemptions, motor vehicle dealer or trailer dealer/mover/manufacture, vehicle mover, U-Drive, dual plate and refuse.

Registration Eligibility Questions include: During the registration term, will the vehicle leave Saskatchewan for any of the following reasons: for use while attending school; travelling to and from work; or for business use? Will the vehicle be outside of Saskatchewan for more than 30 consecutive days for any reason other than school, work or business (i.e. snowbird, extended vacation, full-time traveler)? More questions may be asked depending on the answer.

Proof of ownership, vehicle identification number, colour and intended use information is also collected. The year, make and model of the vehicle being registered is collected by SGI through a system using the VIN.

Ownership details such as seller name, seller address, whether tax has been paid, date of purchase, purchase price and trade-in allowance information is collected. SGI scans the various supporting documents.

SGI determines the allowable plate class.

For newly manufactured vehicles, SGI requires the New Vehicle Information Statement or Certificate of Origin, which is a federal requirement.

If SGI deems it necessary, inspection information is collected.

If the customer declares that provincial sales tax does not have to be paid by the applicant, exemption information is collected.

The customer selects their term length and a signature is collected from the customer.

[10] These data elements all qualify as details of the licence for a vehicle pursuant to subsection 24(2)(e) of FOIP. As such, it does not qualify as personal information. The name and address of the person who owned a vehicle with a particular VIN, as requested by the Applicant, falls into this description.

[11] A similar matter was considered by the Court of Appeal for Saskatchewan in 1993, not long after FOIP came into effect. The Applicant in *General Motors Acceptance Corp. of Canada v. Saskatchewan Government Insurance*, [1993] S.J. No. 601 was seeking the

name and address of a new owner of a specific vehicle identified by make, model and serial number. It was seeking the information for the purpose of dealing with a lien. The conclusion of the Court was that the name and address of the owner of the vehicle was not personal information pursuant to subsection 24(2)(e) of FOIP. It stated that “the plain language of s.24(2)(e) indicates that details of a license or permit are excluded from the operation of s.24(1).” The Court ordered that the information be released to the Applicant.

[12] SGI respectfully indicated that it believed this decision was “incorrectly decided”. It noted the following excerpt from the decision:

The centralized database for vehicle registration records does not differ in principle from a land registry or personal property security registry. A search to ascertain the name and last address of a land owner, does not offend any reasonable expectation of privacy. If a land owner is a potential defendant, one can readily ascertain her/his identity by a search of the "public" record – a record that contains no significant personal details. Similarly the Registrar of the Court of Queen's Bench maintains a Wills and Estates Registry for the Province of Saskatchewan. A search of this registry discloses whether letters probate or letters of administration have issued and if so, the name and address for service of the executor or administrator. We conclude that the Legislature did not intend to impede litigation by denying a prospective litigant essential information concerning the ownership of a motor vehicle. Reading [FOIP] as a whole, we conclude that the information sought is not "personal information".

[13] SGI’s rationale for disputing the correctness of the decision lies in the inability to reconcile the court’s interpretation of FOIP with the *FOIP Regulations* (the Regulations). Section 17 of the Regulations provides a list of circumstances when driver licence and registration information may be shared for the purposes of subsection 29(2)(u) of the Act.

[14] Subsection 29(2)(u) of FOIP provides:

29(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed:

...
(u) as prescribed in the regulations.

[15] Section 17 of the Regulations provides:

17(1) In this section:

(a) “driver licence information” means the name and address of a driver;

(b) “driver record information” means information with respect to:

(i) a driver’s convictions for vehicle-related offences; or

(ii) accidents involving a driver;

(c) “registrar of motor vehicles” means the person or body in any jurisdiction that performs the duties of superintending the registration of motor vehicles and the licensing of drivers in that jurisdiction, and includes the deputy of that person or body;

(d) “registration information” means the name and address of the owner of a vehicle;

(e) “SGI” means the corporation continued pursuant to section 3 of *The Saskatchewan Government Insurance Act, 1980*.

(2) For the purposes of clause 29(2)(u) of the Act, SGI may disclose registration information to:

(a) a receiver or a trustee in bankruptcy for the purpose of permitting that person to carry out the duties of a receiver or a trustee in bankruptcy;

(b) legal counsel acting in a matter directly related to an accident or a claim for damages arising out of the ownership, operation or use of the vehicle;

(c) a person licensed pursuant to *The Motor Dealers Act* or to a manufacturer of vehicles for the purpose of recalling vehicles or making inspections for safety purposes;

(d) a local authority for the purpose of facilitating the collection of outstanding fees, fines or other indebtedness arising out of the ownership, operation or use of the vehicle;

(e) a registrar of motor vehicles in any jurisdiction.

(3) For the purposes of clause 29(2)(u) of the Act, SGI may disclose driver licence information to:

(a) a person who acts as legal counsel for the estate of a deceased driver for the purpose of administering the estate;

(b) a registrar of motor vehicles in any jurisdiction, and may also disclose driver record information to a registrar of motor vehicles;

(c) the War Amputations of Canada for the purpose of allowing that organization to operate a key return service.

[16] Section 17 of the Regulations describes when SGI is able to disclose personal information. However, statutes trump regulations, subsection 24(2)(e) of FOIP indicates that the information in question does not qualify as personal information. I regret having to reach this conclusion.

[17] Reluctantly, but consistent with the ruling by the Court of Appeal of Saskatchewan, I find that the information in question does not qualify as personal information. So with reservation, I conclude SGI has not appropriately applied subsection 29(1) of FOIP to the record.

[18] Vehicle registration information and drivers licence information needs to be more private than it is. I encourage SGI to request the Ministry of Justice to study an amendment to FOIP that would change the definition of personal information and instead list circumstances in which disclosure of vehicle registration information and drivers licence information would be permissible.

IV FINDINGS

[19] I find that the information in the record does not qualify as personal information.

[20] Reluctantly, I find that SGI did not appropriately apply subsection 29(1) of FOIP to the record.

V RECOMMENDATIONS

[21] I recommend that SGI release the record to the Applicant.

[22] I recommend that SGI request the Ministry of Justice to study an amendment to FOIP that would change the definition of personal information and instead list circumstances in which disclosure of vehicle registration information and drivers licence information would be permissible.

Dated at Regina, in the Province of Saskatchewan, this 30th day of May, 2017.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner