

REVIEW OF REQUEST FOR INFORMATION BY [REDACTED]
TO SASKATCHEWAN GOVERNMENT INSURANCE

[REDACTED] [REDACTED] (the Applicant), a solicitor, made an Application for Information to Saskatchewan Government Insurance (SGI) on behalf of his client, General Motors Acceptance Corporation of Canada Limited. Specifically, he requested vehicle registration information pertaining to a motor vehicle owned by General Motors Acceptance Corporation of Canada Limited (GMAC), which had been sold pursuant to a conditional sale contract to one [REDACTED] on February 14, 1991, and which it is alleged the said [REDACTED] has transferred to an unknown third party contrary to the express terms of the conditional sale contract. It is apparent that GMAC is anxious to recover its property, i.e. to enforce its unpaid vendor's lien with respect to the said motor vehicle and it was for this reason that its solicitor sought information. He requested the name and address of the person in whose name the vehicle is registered from SGI as it is the government agency that performs the statutory function of maintaining a registry of motor vehicles (and drivers of motor vehicles) in the Province of Saskatchewan.

By letter dated September 4, 1992, SGI advised the Applicant that:

"This information cannot be released because it falls within the definition of personal information in Section 24(1)(b) and (k) of the Freedom of Information and Protection of Privacy Act. Information of this nature is exempt from access

according to Section 29(1) of the Freedom of Information and Protection of Privacy Act."

It appears that prior to the enactment of The Freedom of Information and Protection of Privacy Act (the Act), that SGI would have disclosed the information requested by the Applicant upon payment of a nominal fee pursuant to an established policy respecting the release of information from the Registry, a copy of which has been supplied to me by SGI, which provides in part that information will be provided pursuant to individual requests:

- "b) where the applicant is a financial institution having a vested interest in the vehicle or is verifying the assets of a borrower;
- d) where the applicant is acting as legal counsel in matters relating directly to the ownership or operation of the vehicle;"

Before proceeding further it is necessary to consider the implications of Section 4 of the Act which provides:

"4 This Act:

- (a) complements and does not replace existing procedures for access to government information or records;
- (b) does not in any way limit access to the type of government 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;
- (d) does not affect the power of any court or tribunal to compel a witness to

testify or to compel the production of documents;

- (e) does not prohibit the transfer, storage or destruction of any record in accordance with any other Act or any regulation;
- (f) does not prevent access to a registry operated by a government institution where access to the registry is normally allowed to the public."

Generally speaking, it is apparent that the import of Section 4 is to preserve access to information as it existed prior to the implementation of the Act. Specifically by subsections (b) and (f) information or records that are normally available to the public or a registry operated by a government institution to which access is normally allowed to the public are unaffected by the enactment of the Act, and by subsection (a) the Act "does not replace" existing procedures for access to information and records.

It is not necessary that information under Section 4 should be material that is a matter of public record. Such information is excluded from the Act under subsection 3(1)(b) and I therefore reject the argument advanced by SGI that Section 4 is intended to refer to Court records or Land Titles Office records, or other similar public records, as if this were so, subsection 4(b) and 4(~~f~~) are redundant.

It is suggested to me by SGI that GMAC, or its solicitors, would not be encompassed by the word "public", which they suggest means the public at large. I have no doubt that the reference to public does in fact mean the public at large, but, equally, I have no doubt that GMAC or its solicitors are members of the public.

Furthermore, I entertain some doubt as to whether the information requested is "personal information" within the meaning of Section 24(1)(b) or (k) as suggested by SGI. Arguably, the information requested is information about a motor vehicle, and in particular, about the ownership or possession of a motor vehicle as it appears from the register maintained by SGI. The purpose of motor vehicle registration is to record information about a motor vehicle rather than about an individual. One must consider the wording of the relevant portions of Section 24:

"24(1)

Subject to subsection (2) "personal information" means personal information about an identifiable individual that is recorded in any form and include:

- (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;
- (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." (Emphasis added).

Where the predominant purpose is to record information about a motor vehicle, it would seem to me that the name and address of the person in whose name the vehicle is registered should be considered to be information about a vehicle rather than personal information about an individual within the meaning of the Act.

Finally, one must not overlook the exception contained in Section 29(2)(a) which provides:

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

- (a) for the purpose for which the information was obtained or compiled by the government institution or for a use that is consistent with that purpose."

It would seem to me that at least one purpose of the registry is to enable a person who has a legitimate need for so doing to be able to obtain recorded information about a motor vehicle. It has in fact been used extensively for such purpose in the past.

Accordingly, I have concluded that the Act does not prevent SGI from providing the information requested or abrogate the previously existing procedures for obtaining such information.

However, it appears that the view was taken that information of the type requested by the Applicant herein was in fact within the scope of the Act since Regulations under the Act were enacted which include:

"17(2)

SGI may disclose registration information to:

- b) legal counsel acting in a matter directly related to a claim for damages arising out of the ownership, operation or the use of the vehicle".

Registration information is defined as "the name and address of the owner of a vehicle".

The position taken by SGI is that the Regulations would in any event only permit disclosure with respect to a claim for damages resulting from a motor vehicle accident. The position taken by the solicitors for GMAC is that they are acting in a matter directly related to a claim for damages arising out of the alleged conversion of the motor vehicle by the person to whom it was sold by GMAC under the conditional sales contract, or the person who has subsequently acquired ownership or possession of same.

I can see no reason for putting the restricted interpretation upon the Regulations advocated by SGI. While it is true that the primary remedy of GMAC in the event of default is repossession of the vehicle in question, there is no doubt

that under certain circumstances or in some cases a claim for damages would be available to GMAC as, for example, where the vehicle has been destroyed or any other instance which would bring them within the exceptions contained in Section 18 of The Limitation of Civil Rights Act Cap. L-16.

It is not, of course, necessary for the solicitors for GMAC to prove that they could successfully obtain a judgment. It is only necessary that the request for information be related to a "claim for damages arising out of the ownership... of the vehicle". A person who sells a vehicle under a conditional sale contract remains the "owner" even though the purchaser may be regarded as the owner for the purpose of registration under the applicable legislation.

Accordingly, even if I am wrong in the view I have taken with respect to the application of the Act, it is my view that SGI is empowered to disclose the information by virtue of the Regulations, and, accordingly, it is my recommendation that SGI provide the Applicant with the name and address of the registered owner of the vehicle in question.

Dated at Regina, Saskatchewan this 6th day of January 1993.

Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan