

**REPORT WITH RESPECT TO THE APPLICATION  
FOR REVIEW OF ██████████ IN RELATION TO INFORMATION  
REQUESTED FROM THE SASKATCHEWAN OPPORTUNITIES CORPORATION**

By an Access to Information Request form dated September 25, 2000, ██████████ of ██████████ (the "Applicant") requested information from the Saskatchewan Opportunities Corporation (the "Respondent") regarding any Saskatchewan Government investments, loans, and future commitments pertaining to the Temple Gardens Mineral Spa, *et al.* in Moose Jaw, Saskatchewan.

The letter accompanying his Request was worded as follows:

"Re: Access to Information Request:

Files: Moose Jaw Downtown Revitalization Project, including River Street Revitalization Project, The Tunnels of Moose Jaw, Historical Re-Development of Main Street, Temple Gardens Mineral Spa, New Tourism Information Centre and any other projects related to the Revitalization Project.

I am seeking information on all Saskatchewan Government investments, loans and future commitments regarding the Moose Jaw Downtown Revitalization Project. Including copies of any agreements, financial reports and correspondence on future commitments [sic].

You annual report notes \$700,000 equity in the Temple Gardens Mineral Spa. I request copies of the agreement and financial reports on the investment.

I also request copies of any request for assistance for Revitalization Projects and responses to the requests.

I would also like any analysis or other reports regarding all requests, either approved or denied and any notes attached to the files.

If you would like to discuss my request I can be reached at work - ██████████.

Thank you for your consideration."

By letter dated October 18, 2000, Ms. Heather McCrum, Access Officer for the Respondent, advised the Applicant as follows:

“Thank you for your application under *The Freedom of Information and Protection of Privacy Act* received in our office on September 25, 2000.

Your request asked for information on all Saskatchewan Government investments, loans and future commitments regarding the Moose Jaw Downtown Revitalization Project as well as financial information on Temple Gardens Mineral Spa.

We are unable to provide you with all of the information requested. Our policy, which is supported by our contractual investment agreements, is that we disclose the nature, amount and purpose of the investment at the time of disbursement and then report the ultimate resolution of the investment. We do not disclose details of the individual investment or the current status for commercial and client privacy reasons.

*The Freedom of Information and Protection of Privacy Act* exempts the release of such information in the following sections:

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

(d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the Government of Saskatchewan or a government institution;

19(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) financing, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to a government institution 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;

(d) a statement of financial account relating to a third party with respect to the provision of routine services from a government institution;

- (e) a statement of financial assistance provided to a third party by a prescribed Crown corporation that is a government institution; or
- (f) information supplied by a third party to support an application for financial assistance mentioned in clause (e).”

We would advise that SOCO has no involvement in the Moose Jaw Downtown Revitalization Project.

With respect to SOCO’s total investment in Temple Gardens Mineral Spa, you will find that information on pg. 13 of our most recent Annual Report, a copy of which I have enclosed for your review.

If you wish to request a review of this decision, you may do so within one year of this notice. To request a review, please complete a “Request for Review” form, which is available at the same location where you applied for access. “Request for Review” forms are sent directly to the Information and Privacy Commissioner in Regina.

I trust this is satisfactory.”

Along with his formal Request for Review dated October 20, 2000, the Applicant reattached a copy of his December 21, 2000 letter to the Respondent. In the Request for Review, the Applicant states that he has been refused access to all or part of the record requested.

I then determined that I would undertake the review as requested by the Applicant and, accordingly, so advised the Applicant and the Respondent. I determined that for the purposes of carrying out my review, it would be necessary for me to personally inspect the materials in question. The Respondent made the materials in question available to me for my inspection, and I spent several hours at the offices of the Respondent reviewing the relevant documents. In addition, I requested copies of several documents so that I could review those documents more thoroughly. The Respondent provided me with copies of the documents requested.

In addition, the Respondent provided me with a written submission that detailed its position with respect to the Request for Review by the Applicant. As authorized by the Respondent, I provided the Applicant with a copy of this written submission without providing the Applicant with the Appendices (containing examples of material proposed by the Respondent to be exempt) that were attached to my original copy. I asked the Applicant to provide me with any further submissions that he may have after reviewing the Respondent’s written submission.

The Applicant responded to me, by letter dated February 13, 2001, as follows:

“Re: Your letter dated January 10, 2001.

I apologize for my late response. I’ve been tied up with other projects.

I have just a few comments on the brief prepared by the firm of Balfour Moss on behalf of the Saskatchewan Opportunities Corporation.

The brief describes in length, the role of the Saskatchewan Opportunities Corporation. I feel the role of the Corporation is not relevant with regards to my freedom of information request. The matter for consideration here, I feel, is the interpretation of – The Freedom of Information and Privacy Act.

I think the intent of the Act is best stated on page 6 (13) of the Balfour Moss brief, quoting Mr. Justice Tallis. In outlining the basic purpose of the Act, Justice Tallis wrote:

‘The Act’s basic purpose reflects a general philosophy of full disclosure unless information is exempted under clearly delineated statutory language. There are specific exemptions from disclosure set forth in the Act, but these limited exemptions do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act.’

As noted earlier, I feel any decisions on my request should be strictly measured to ensure full compliance with the law, regardless of any objections.”

The relevant provisions of *The Freedom of Information and Protection of Privacy Act* are as follows:

“17(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 a government institution or a member of the Executive Council;
- (b) consultations or deliberations involving:
  - (i) officers or employees of a government institution;
  - (ii) a member of the Executive Council; or
  - (iii) the staff of a member of the Executive Council;
- (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of Saskatchewan or a government institution, or considerations that relate to those negotiations;
- ...
- (g) information, including the proposed plans, policies or projects of a government institution, disclosure of which

could reasonably be expected to result in disclosure of a pending policy or budgetary decision.”

(h) information, including the proposed plans, policies or projects of a government institution, disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.

...

18(1) A head may refuse to give access to a record that could reasonably be expected to disclose:

...

(b) financial, commercial, scientific, technical or other information:

(i) in which the government of Saskatchewan or a government institution has a proprietary interest or a right of use; and

(ii) that has monetary value or is reasonably likely to have monetary value;

...

(d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the Government of Saskatchewan or a government institution;

(e) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Saskatchewan or a government institution, or considerations that relate to those negotiations;

(f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the Government of Saskatchewan or a government institution;

...

(h) information, the disclosure of which could reasonably be expected to result in undue benefit or loss to a person.

19(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

...

(b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to a government institution 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;

...

(e) a statement of financial assistance provided to a third party by a prescribed Crown corporation that is a government institution; or

(f) information supplied by a third party to support an application for financial assistance mentioned in clause (e).

(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.

22 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 an agent of the Attorney General for Saskatchewan or legal counsel for a government institution in relation to a matter involving the provision of advice or other services by the agent or legal counsel; or

(c) contains correspondence between an agent of the Attorney General for Saskatchewan or legal counsel for a government institution and any other person in relation to a matter involving the provision of advice or other services by the agent or legal counsel.”

The Respondent claims that many of the requested documents are exempt from production on the basis that they were supplied by a third party [REDACTED] in confidence. With respect to this potential exemption (as enunciated in Section 19(1)(b) of the Act) relied upon by the Respondent, it is my view that this material was supplied by the [REDACTED] in a manner that was intended to be confidential by the authors of the material. Additionally, [REDACTED] has advised the Respondent that it opposes production of the documents requested by the Applicant. As such, it is my view that

these documents are exempt from disclosure pursuant to Section 19(1)(b) of the Act, and I recommend that they not be disclosed to the Applicant.

With respect to the balance of the materials for which the Applicant has requested disclosure, it is my view that the remainder of these documents should not be disclosed to the Applicant, as they reflect analyses, recommendations, consultations or deliberations between the Respondent's officials and its employees regarding the issues at hand. As such, it is my view that the remainder of these documents are exempt pursuant to Section 17 of the Act.

Dated at Regina, in the Province of Saskatchewan, this \_\_\_\_\_ day of August, 2001.

GERALD L. GERRAND, Q.C.  
Commissioner of Information  
and Privacy for Saskatchewan