

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] [REDACTED] IN RELATION TO INFORMATION
REQUESTED FROM SASKATCHEWAN GOVERNMENT INSURANCE**

By an Access to Information Request Form dated February 15, 2001, [REDACTED] (the “Applicant”) requested of Saskatchewan Government Insurance (the “Respondent”) all personal information pertaining to his December 13, 2000 SGI insurance claim regarding a break-in/fire.

By letter dated March 20, 2001, the Access Officer for the Respondent, K.A. Lerner, wrote the Applicant as follows:

“I have your letter of March 13, 2001.

I withheld or deleted information in responding to your request in accordance with my interpretation of sections 15(1)(c) and 17(1)(b)(i) of *The Freedom of Information and Protection of Privacy Act*.

As indicated in my letter to you of March 8, 2001 if you wish to have my decision reviewed a “Request for Review” form must be completed and sent to Gerald Gerrand, Q.C., Information and Privacy Commissioner at the address set out in my letter. A copy of that form is enclosed.”

In a formal Request for Review dated March 24, 2001, addressed to me, the Applicant requested a Review of the above decision of the Respondent. In his Request for Review, the Applicant explained the details of his request as follows:

“I requested all personal information pertaining to the breakin [sic] /fire of December 13, 2000 SGI Insurance claim. I have received from SGI bits and pieces of personal information which clearly proves that their [sic] is additional personal information not being released. (please refer to additional pages). Thank you.”

He then went on in his additional supporting documentation to state as follows:

"When Mr. Lerner, SGI Legal Counsel, forwarded personal information to me it quickly came to my attention that SGI officials has obtained personal information from a variety of government agencies and from members of the general public.

Driver license checks, property checks, R.C.M.P. C.P.I.C. checks. There were a few internal memos between SGI employees but clearly not all internal memos. Hand written notes by SGI employees with names of members of the general public and where their [sic] family lives whom I knew on a personal level. Example, [REDACTED], Family lives in [REDACTED]. There was even internal SGI memos refering [sic] to [REDACTED] who lives [REDACTED] and details of his personal life.

I am requesting full unrestricted access to all SGI files that pertain to my personal information. Under the law I have the right to check information about me and have it corrected [sic] is my fundamental right which is protected under the law.

Recently, I had filed a complaint with SGI regarding the conduct of two SGI employees for disgraceful conduct in delaying the SGI claim. Both SGI employees denied it. The President of SGI, Mr. Larry Fogg, wrote me a letter that the two SGI employees did not deliberately delay or prolong the settlement process, dated March 19, 2001. What SGI President, Mr. Larry Fogg, did not know was that I had a internal memo between the two SGI employees in question stating to not pay out the SGI claim and would delay paying out the SGI claim as long as possible. Document presently with my lawyer. This internal memo was obtained through access to information and provided by Mr. Ken Lerner, SGI Legal Counsel. (Mr. Larry Fogg letter enclosed.)

After Mr. Ken Lerner, SGI Legal Counsel provided personal information to me I wrote Mr. Ken Lerner specifcly [sic] requesting that he provide the interpretation of the sections 15(1)(c) and 17(1)(b)(i) of the Freedom to Information and Protection of Privacy Act. I wanted to know what they were in detail. My request dated March 13, 2001. Mr. Ken Lerner refused to tell me what the sections mean't. [sic] Refer to Mr. Ken Lerner March 20, 2001 letter to me.

It is my position that because SGI has themselves opened the door to personal information that they feel I should not be given access to is too little too late to justify. If I am permitted to see one internal SGI memo then I should be allowed to see all internal SGI memos. This also should apply to hand written notes that refer to members of the general public SGI employees has talked to. I should be allowed access to all personal information that SGI has obtained from the general public as well.

This entire matter of access to personal information is in regard to an insurance claim. Period. My lawyer has advised me that the R.C.M.P. has no present investigation, case closed pending any new information. SGI reasons for refusal to release all its files to personal information is about the settlement of my SGI insurance claim. Not security reasons or investigative reasons. Further SGI is a financial corporation and its reasons is about money and money only. I am a paying customer and should have the legal right to know all personal information that SGI has pertaining to me."

I determined that I would undertake the Review as requested by the Applicant and so advised both the Applicant and the Respondent. At the same time, I invited each party to provide me with any additional submissions with respect to the issues in this matter. I received no such additional submissions.

For purposes of carrying out my Review, I determined that it would be necessary for me to personally inspect the materials in question. I was provided with two packages of material, consisting of approximately 67 pages, along with the Respondent's letter to me dated March 28, 2001.

The relevant sections of *The Freedom of Information and Protection of Privacy Act*:

15(1) A head may refuse to give access to a record, the release of which could:

- ...
- (c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;"
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17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- ...
- (b) consultations or deliberations involving:
 - (i) officers or employees of a government institution;"
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17(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 government institution, unless the testing was conducted:
 - (i) as a service to a person, a group of persons or an organization other than a government institution, 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 government institution; or
 - (ii) a substantive rule or statement of policy that has been adopted by a government institution for the purpose of interpreting an Act or regulation or administering a program or activity of a government institution.”

Having reviewed the documents that the Respondent refused to disclose to the Applicant in this matter, I am of the view that the Respondent is not obliged to provide the Applicant with the copies of documents that he requests for the following reasons:

1. The materials include information with respect to a lawful investigation which the head is not obliged to disclose pursuant to Section 15(1)(c) of the *Act*.
2. The materials relate to consultations or deliberations involving officers or employees of the Respondent, a government institution, and need not be disclosed by a head pursuant to the provisions of Section 17(1)(b)(i) of the *Act*.

In summary, I recommend that the Respondent not disclose any of the documents requested herein to the Applicant, as the documents properly fall within the exemptions claimed by the Respondent.

Dated at Regina, in the Province of Saskatchewan, this 4th day of May, 2001.

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