



REVIEW REPORT 202-2015

SaskPower

April 5, 2016

Summary: The Applicant requested names and addresses of plan members from SaskPower. SaskPower responded claiming the record contained personal information and therefore withheld the information pursuant to subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner found that the information contained personal information and that subsection 29(1) of FOIP applied to the record. The Commissioner recommended that SaskPower take no further action regarding this matter.

I BACKGROUND

- [1] On July 31, 2015, SaskPower received an access to information request from the Applicant on behalf of Power Pioneers Association of Saskatchewan Inc. (PPAS) for “names and addresses of members of the Power Corporation Superannuation Plan.”
- [2] On August 24, 2015, SaskPower responded to the Applicant stating that the Applicant had “not provided [SaskPower] with the attached proof that you have authority to receive the information requested, access to the records you have requested is denied pursuant to section 29(1) of *The Freedom of Information and Protection of Privacy Act*... The reason for refusal of these records is that the requested records contain personal information relating to third parties.”
- [3] On November 5, 2015, my office received a request for review from the Applicant. On November 6, 2015, my office notified SaskPower and the Applicant of the review. My

office requested SaskPower provide a submission to support its application of subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP), as well as the index of records and the record at issue. The Applicant was also invited to provide a submission to our office.

II RECORD AT ISSUE

[4] The record at issue is a 43 page list of names and home addresses of individuals that are members of the Power Corporation Superannuation Plan.

III DISCUSSION OF THE ISSUES

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

1. Does the record contain “personal information” as defined at subsection 24(1) of FOIP?

[6] Subsection 24(1) of FOIP states that “personal information means personal information about an identifiable individual that is recorded in any form...” Subsection 24(1) of FOIP provides a list of examples of personal information but it is not meant to be exhaustive. In order to qualify as personal information, the information needs to be about an identifiable individual and personal in nature.

[7] *Identifiable individual* means that it must be reasonable to expect that an individual may be identified if the information were disclosed. The information must reasonably be capable of identifying particular individuals because it either directly identifies a person or enables an accurate inference to be made as to their identity when combined with other available sources of information or due to the context of the information in the record.

[8] *Personal in nature* means that the information reveals something personal about the individual. Information that relates to an individual in a professional, official or business

capacity could qualify only if the information revealed something personal about the individual for example, information that fits the definition of employment history.

[9] In SaskPower's submission to my office, it provided the following in support of its assertion that the information in the record qualified as personal information:

It is respectfully submitted that the names and addresses of identifiable individuals (who are not the applicant) are "personal information" within the meaning of section 24 of [FOIP] and its disclosure is prohibited pursuant to subsection 29(1) of [FOIP]... Specifically included in the examples of personal information, in clause 24(1)(e) is the home or business address...of the individual, and in clause 24(1)(k) the name of an individual where it appears with other information that relates to the individual; or the disclosure of the name itself would reveal personal information about the individual. Further, personal information includes in clause 24(1)(b) information that relates the employment history of the individual or information relating to financial transactions in which the individual has been involved and clause 24(1)(j) information that describes an individual's finances, financial history or activities. Being a member of the Power Corporation Superannuation Plan identifies an individual as having been former employees and it indicates that the individual is in receipt of a pension which is a financial transaction and or activity.

It is respectfully submitted that being in receipt of a superannuation allowance is not a discretionary benefit as contemplated in clause 24(2)(a) of the Act. The Superannuation Act provides in section 13:

Subject to this Act and the regulations, the superannuation allowance shall be granted to:

(a) Every employee who, having attained the age of retirement and having made contributions under section 12, retires from the service of the corporation.

[10] Based on a review of the record, I find the names and street addresses of the plan members to be personal information pursuant to subsection 24(1) of FOIP.

2. Did SaskPower properly apply subsection 29(1) of FOIP to the withheld record?

[11] SaskPower's submission provided as follows:

The Power Corporation superannuation plan is a defined benefit pension plan governed by the provisions of *The Power Corporation Superannuation Act* (the

“Superannuation Act”) and *The Superannuation (Supplementary Provisions) Act*. SaskPower administers the Superannuation Act on behalf of the SaskPower Superannuation Board. The members of the plan are those who were hired prior to October 1, 1977, and who did not elect to transfer to the defined contribution plan before October 1, 1978 or their beneficiaries (surviving spouses)... Both members and employers (SaskPower, SaskEnergy and designated institutions) have contributed to the funding of the plan. The Act does not require the plan to be funded by SaskPower but provides a SaskPower guarantee of pension benefits.

...

[12] PPAS also provided my office with a submission. In the submission it provides the following points:

- PPAS is an Information Service Corporation (ISC) registered representative of PCSP [Power Corporation Superannuation Plan] members
- PPAS has a member on PCSP Board, under legislation
- Pension Update Newsletter acknowledges that PPAS represent PCSP members
- PPAS needs involvement from as many PCSP members as possible to be effective in representing their views to the PCSP board through the PPAS representatives on the PCSP board. There is no organization other than PPAS whose primary goal is to protect their interests in their pension plan.
- Many PCSP members are likely spouses of deceased SaskPower/SaskEnergy members who may have limited knowledge of their pension plan. Denying PPAS access to the names and addresses of these retirees and spouses of retirees denies them the opportunity to become members of PPAS which in turn denies them a voice, through the PPAS representative on the PCSP board, to address issues regarding safeguarding of their pension funds and possible improvements to the PCSP plan.

[13] PPAS also provided my office with information regarding its bylaws, corporate registry information and correspondence in support of its submission.

[14] The Corporate Registry from the Information Services Corporation provides that PPAS is a Non-Profit Corporation that represents members regarding pension plan and related benefits.

[15] The Power Pioneers Association of Saskatchewan Inc. Bylaws provides as follows:

2. Objectives

The objectives of the corporation are:

(a) to promote the interests of the membership to receive the best possible benefits from the Power Corporation Superannuation Pension Plan;

(b) to provide such programs that will assist the membership in their health and well-being;

(c) to provide a forum for the discussion and distribution of information on matters of interest to the members of the corporation.

[16] One of the letters provided by PPAS is a letter from SaskPower to a law firm dated January 27, 1999. Based on a review of this letter, it appears that the lawyer was working with SaskPower and PPAS to determine the number of PCSP members PPAS represented. It appears the law firm was making a determination by comparing lists of members provided by PPAS and SaskPower. This letter further states:

The enclosed lists are forwarded to you on the trust condition that they not be disclosed to any representative of the Power Pioneers or any other individual. Similarly, I expect that the Power Pioneers will make its membership list available subject to a similar condition.

[17] In a letter dated February 3, 1999, the law firm advised PPAS of the total number of PSCP members that were also members of the PPAS.

[18] While PPAS has shown my office that it has a representative on the PCSP Board, it has not provided me with any documentation to support the claim that the information personal information should be disclosed to PPAS. Further the January 27, 1999 letter referenced above gives the impression that the personal information of plan members is not information SaskPower has shared with PPAS in the past. In a telephone call with PPAS, my office asked the Applicant if PPAS had an agreement with SaskPower to share this type of information. The Applicant however indicated that they were not aware of any such agreement.

[19] As PPAS has not demonstrated that they have authority to gain access to this personal information, SaskPower should continue to withhold the record.

IV FINDINGS

[20] I find that the record contains personal information as defined in subsection 24(1) of FOIP.

[21] I find that SaskPower appropriately applied subsection 29(1) of FOIP to the record.

V RECOMMENDATION

[22] I recommend that SaskPower take no further action.

Dated at Regina, in the Province of Saskatchewan, this 5th day of April, 2016.

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