



## **REVIEW REPORT 126-2022**

### **Ministry of Environment**

**January 31, 2023**

**Summary:** The Applicant submitted an access to information request to the Ministry of Environment (Environment) requesting information on a contamination check. Environment withheld portions of the record pursuant to subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant requested a review of Environment's decision. The Commissioner found Environment did not properly apply subsection 29(1) of FOIP to the record. The Commissioner recommended Environment release the withheld information to the Applicant within 30 days of receiving this report.

### **I BACKGROUND**

[1] On May 19, 2022, the Ministry of Environment (Environment) received an access to information request from the Applicant as follows:

Contamination check on [location redacted]

Tax roll [number redacted]

[2] In its section 7 decision dated June 10, 2022, Environment responded to the Applicant as follows:

Your request has been partially granted and a copy of the information is attached. Please find attached records responsive to your request. Please note that, pursuant to section 8 of *The Freedom of Information and Protection of Privacy Act* (The Act), some of the information contained in the attached records has been redacted. Access to this information is denied pursuant to section 29(1) of the Act, disclosure of personal information.

[3] On June 21, 2022, my office received a request for review from the Applicant regarding Environment’s decision to withhold records in part pursuant to subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

[4] On July 21, 2022, my office sent notifications to Environment and the Applicant of my office’s intention to undertake a review of Environment’s decision.

[5] On September 19, 2022, Environment sent to my office its submission describing its rationale for applying subsection 29(1) of FOIP to the record.

## **II RECORDS AT ISSUE**

[6] The record at issue totals two pages. Environment withheld information partially on pages 1 and 9 of the record pursuant to subsection 29(1) of FOIP.

## **III DISCUSSION OF THE ISSUES**

### **1. Do I have jurisdiction?**

[7] Environment is a “government institution” pursuant to subsection 2(1)(d)(i) of FOIP. Therefore, I have jurisdiction to conduct this review.

### **2. Did Environment properly apply subsection 29(1) of FOIP?**

[8] Subsection 29(1) of FOIP provides as follows:

**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.

[9] Subsection 29(1) of FOIP protects the privacy of individuals whose personal information may be contained within records responsive to an access to information request made by

someone else. Subsection 29(1) of FOIP requires the government institution to have the consent of the individual whose personal information is in the record prior to disclosing it. Information must qualify as personal information pursuant to section 24 of FOIP (*Guide to FOIP*, Chapter 4, “Exemptions from the Right of Access”, updated April 30, 2021 [*Guide to FOIP*, Ch. 4], p. 281).

[10] In its submission, Environment indicated that the information severed is personal information and includes the following: an identifying number, symbol or other particular assigned to the individual; home or business address; home or business telephone number; the disclosure of the name itself would reveal personal information about the individual.

[11] In order for subsection 29(1) of FOIP to apply, the information in the record must first qualify as “personal information” as defined by subsection 24(1) of FOIP; however, it is not an exhaustive list.

[12] In its submission to my office, Environment stated the following regarding the redacted information:

The ministry has withheld the personal information as defined in subsections 24(1)(1.1) and (2) of FOIP, which state, “personal information” means personal information about an identifiable individual that is recorded in any form, and includes: any identifying number, symbol or other particular assigned to the individual, home or business address, home or business telephone number, the disclosure of the name itself would reveal personal information about the individual for example.

[13] From a review of pages 1 and 9 of the record, the portions released to the Applicant indicate that an individual business owner was applying for registration for “an existing storage facility” in accordance with the “Hazardous Substance Regulations”. I note the redacted portions on page 1 of the record is business card information, including the name of the business owner making the application and business contact information including business name, business address, telephone numbers and type of business. Page 9 includes this individual’s signature.

[14] In my office's [Review Report 186-2019](#), my office found that business card information would not be considered personal information, as follows:

[25] ...the Ministry has also applied subsection 29(1) of FOIP to cellular telephone numbers of a third party business employee. In its submission, the Ministry indicate that the cellular telephone number was withheld because if released it would disclose personal information of an identifiable individual as the number is not publicly available.

[26] Business card information is the type of information found on a business card (name, job title, work address, work phone numbers and work email address). This type of information is generally not personal in nature and therefore would not be considered personal information. Further, in Review Report [149-2019, 191-209](#) [sic], I noted that business card information does not qualify as personal information when found with work product. Work product is information generated by or otherwise associated with an individual in the normal course of performing his or her professional or employment responsibilities, whether in a public or private setting. Work product is also not considered personal information.

...

[28] In [Review Report F-2010-001](#), [Review Report F-2012-006](#) and [Review Report LA-2013-002](#), my office noted that section 4.01 the *Personal Information Protection and Electronic Documents Act* (PIPEDA), which applies to every organization that collects, uses or discloses personal information in the course of “commercial activities”, carves out business contact information from the type of personal information that requires protection.

[29] Subsection 2.1 of PIPEDA defines “business contact information” as, “information that is used for the purpose of communicating or facilitating communication with an individual in relation to their employment, business or profession such as the individual’s name, position name or title, work address, work telephone number, work fax number or work electronic address.” This supports the conclusion that business card information is not meant to be personal information for the purposes of subsection 24(1) of FOIP when it appears in work product.

[30] The cellular telephone number, therefore, constitutes business card information and does not qualify as personal information in this instance. I recommend that the Ministry release it to the Applicant.

[15] In my office's [Review Report 149-2019, 191-2019](#), my office provided the following regarding the application of subsection 29(1) of FOIP to signatures:

[87] In the past, I have defined work product as information generated by or otherwise associated with an individual in the normal course of performing his or her professional or employment responsibilities, whether in a public or private setting. Work product is

not considered personal information. Further, my office has found that business card information is not personal in nature and would not qualify as personal information. **Finally, in the past, my office has determined that signatures do not constitute personal information when made in a work-related capacity. However, a signature may be personal in nature outside of a professional context. In this case, all of the records were created in a professional context and constitute work product.**

[88] Past decisions have not only found that work product of employees of public bodies should be released, my office's decisions have also found that work product of employees of private organizations do not qualify as personal information.

[89] **The signatures in question do not qualify as personal information.** I find that subsection 29(1) of FOIP does not apply to the portions of the record in question...

[Emphasis added]

[16] The redactions in the record are not personal information as relates to an individual acting in a work-related capacity, not a personal one. As such, I find that Environment did not properly apply subsection 29(1) of FOIP to pages 1 and 9 of the record. I recommend Environment release the redacted portions on these pages to the Applicant within 30 days of receiving this Report.

#### **IV FINDING**

[17] I find that Environment did not properly apply subsection 29(1) of FOIP to pages 1 and 9 of the record.

#### **V RECOMMENDATION**

[18] I recommend that Environment release the redacted portions of the record to the Applicant within 30 days of receiving this Report.

Dated at Regina, in the Province of Saskatchewan, this 31<sup>st</sup> day of January, 2023.

Ronald J. Kruzeniski, K.C

Saskatchewan Information and Privacy  
Commissioner