



REVIEW REPORT 066-2024

Rural Municipality of Hazel Dell No. 335

September 12, 2024

Summary:

The Applicant asked the Rural Municipality of Hazel Dell No. 335 (RM) for a copy of an ethics complaint made against them. The Applicant, a councillor, was interested in knowing who submitted the complaint against them. The RM denied the Applicant access to this information pursuant to section 20 and subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The A/Commissioner found the RM properly applied subsection 28(1) of LA FOIP and recommended that the RM continue to withhold the information pursuant to subsection 28(1) of LA FOIP. As he found the information could be withheld pursuant to subsection 28(1) of LA FOIP, the A/Commissioner had no need to review the RM's reliance on section 20 of LA FOIP, which it had applied alongside subsection 28(1) of LA FOIP.

I BACKGROUND

- [1] On December 20, 2023, the Rural Municipality of Hazel Dell No. 335 (RM) received the Applicant's access to information request for records regarding the "Code of ethics complaint against me [the Applicant]."
- [2] In its section 7 decision letter to the Applicant dated February 15, 2024, the RM stated it was denying access to the record, in part, pursuant to "Section 20 subclause 23(k)(ii) and clause 28(2)(1) of..." *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).
- [3] On March 4, 2024, the Applicant advised my office that they were not satisfied with the RM's decision. The Applicant said they wanted to know who filed the ethics complaint

against them, which on the document in question includes, “the name and address of the person who filed it”. The Applicant asked the Commissioner to review the RM’s decision.

[4] On April 11, 2024, my office notified the Applicant and the RM that my office would be undertaking a review. At issue is the RM’s assertion that the information contained on the document qualifies as personal information of a third party pursuant to subsection 23(1)(k)(ii) of LA FOIP and, therefore, can be withheld from release pursuant to subsection 28(1) of LA FOIP. Also under review is the RM’s assertion that the information can be withheld from release pursuant to section 20 of LA FOIP.

[5] On April 22, 2024, the RM provided its submission. The Applicant provided information throughout the process, and also provided a copy of their submission to my office on September 4, 2024.

II RECORDS AT ISSUE

[6] At issue is a one-page document. The portion released to the Applicant indicates that it is called, “Schedule A, Formal Complaint Form” (Form A). The RM withheld the name (first and last), mailing address and signature of the complainant on Form A pursuant to section 20 and subsection 28(1) of LA FOIP.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[7] The RM is a “local authority” pursuant to subsection 2(1)(f)(i) of LA FOIP; therefore, I have jurisdiction to conduct this review.

2. Did the RM properly apply subsection 28(1) of LA FOIP?

[8] Subsection 28(1) of LA FOIP provides as follows:

28(1) No local authority 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 29.

[9] Subsection 28(1) of LA 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. When dealing with information in a record that appears to be personal information, the first step is to confirm the information indeed qualifies as personal information pursuant to section 23 of LA FOIP. The list of examples provided for at subsection 23(1) of LA FOIP is not meant to be exhaustive. This means there can be other types of information that could qualify as personal information. For information to be personal information, it must: 1) be about an identifiable individual; and 2) be personal in nature. The *Guide to LA FOIP*, Chapter 6, “Protection of Privacy”, updated February 27, 2023 [*Guide to FOIP*, Ch. 4], at pages 39 and 40, elaborates on these as follows:

- Information is about an “identifiable individual” if the individual can be identified from the information (e.g., their name or address) or the information, if combined with other available individual, could reasonably be expected to allow the individual to be identified. “Identifiable” means it is reasonable to expect the person can be identified as a result of disclosure.
- Information is “personal in nature” if it reveals something personal about the person. “Personal” means affecting or concerning a person or concerning their private rather than professional life.

[10] On review, as previously stated, Form A contains the full name (first and last), mailing address and signature of the complainant (who is not the Applicant). Disclosure of the complainant’s full name itself would reveal personal information about them and so it qualifies as their personal information as defined by subsection 23(1)(k)(ii) of LA FOIP. Their address qualifies as their personal information pursuant to subsection 23(1)(e) of LA FOIP, and their signature qualifies as personal information pursuant to subsection 23(1)(d) of LA FOIP. These subsections of LA FOIP provide as follows:

23(1) Subject to subsections (1.1) and (2), “personal information” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(d) any identifying number, symbol or other particular assigned to the individual;

(e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;

...

(k) the name of the individual where:

...

(ii) the disclosure of the name itself would reveal personal information about the individual.

[11] As such, I find the RM properly applied subsection 28(1) of LA FOIP to the complainant's full name, their address and their signature on Form A and recommend the RM continue to withhold this information pursuant to subsection 28(1) of LA FOIP.

[12] This continues an approach I have taken in the past regarding the identifying personal information of individuals who submit ethics complaints to rural municipalities; for example, see [Investigation Report 350-2017](#) concerning the Village of Hodgeville, and [Review Report 132-2021](#) concerning the Rural Municipality of McKillop No. 220. In Investigation Report 350-2017, I had considered that subsection 120(2) of *The Municipalities Act* permits the closure of a meeting to the public (or by having it "in camera") if the purpose is to protect personal information, which is apparently what occurred in this matter.

[13] Because I found the RM properly applied subsection 28(1) of LA FOIP and can continue to withhold the information in the record pursuant to this provision, I do not need to review its application of section 20 of LA FOIP.

IV FINDINGS

[14] I find I have jurisdiction to conduct this investigation.

[15] I find the RM properly applied subsection 28(1) of LA FOIP to the full name of the complainant, their mailing address and their signature on Form A.

V RECOMMENDATION

[16] I recommend the RM continue to withhold the full name of the complainant, their mailing address and their signature on Form A pursuant to subsection 28(1) of LA FOIP.

Dated at Regina, in the Province of Saskatchewan, this 12th day of September, 2024.

Ronald J. Kruzeniski, KC
A/Saskatchewan Information and Privacy
Commissioner