



## **REVIEW REPORT 077-2022**

### **Town of Ituna**

**January 31, 2023**

**Summary:** The Applicant submitted an access to information request to the Town of Ituna (Town) requesting property tax ledger information related to a property's previous owners. The Town asserted that the information in the record was third party personal information pursuant to subsection 23(1)(j) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) and denied access to the record pursuant to subsection 28(1) LA FOIP. The Applicant requested a review of the Town's decision. The Commissioner found the Town did not properly apply section 28(1) of LA FOIP to portions of the record, but it did to others. The Commissioner recommended the Town sever certain information but release the remaining portions of the record to the Applicant.

### **I BACKGROUND**

[1] The Commissioner was raised and went to school in the Town of Ituna. Although no conflict exists today, the Commissioner has taken no part in this review and has delegated the Deputy Commissioner to make all decisions related to this review. The only thing that has occurred is that the Report has gone out under the Commissioner's name after being reviewed and approved by the Deputy Commissioner.

[2] On March 11, 2022, the Town of Ituna (Town) received the following access to information requests from the Applicant:

Tax ledger for property known as [address of identifiable individual] prior to 06/16/2020 for 7 years

[3] On March 29, 2022, the Town responded to the Applicant as follows:

Thank you for your access to information request received in this office on March 11, 2022 requesting access to the full ledger report for taxes paid, taxes owing, fines and tax enforcement proceedings for the last 7 years for the property located at [address of identifiable individual]

After reviewing your initial request and clarification in regards to what information you were requesting, access to the records you have requested is denied pursuant to section 23(j) and 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (the Act).

[4] On April 21, 2022, the Applicant submitted a request for review to my office.

[5] On May 10, 2022, my office sent notifications to the Town and the Applicant of my office's intention to undertake a review of the Town's decision.

## **II RECORD AT ISSUE**

[6] My office clarified with the Town that the only responsive record in this review is a one-page property ledger report from May 2015 to January 2020, which the Town withheld in full pursuant to subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

## **III DISCUSSION OF THE ISSUES**

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

[7] The Town of Ituna is a "local authority" pursuant to subsection 2(f)(i) of LA FOIP. Therefore, I have jurisdiction to conduct this review.

### **2. Did the Town properly apply subsection 28(1) of LA FOIP?**

[8] Subsection 28(1) of LA FOIP is a mandatory exemption that 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. Subsection 28(1) of LA FOIP requires a local authority to have the consent of the individual whose personal information is in the record prior to disclosing it. Without consent, personal information cannot be released unless one of the provisions under subsection 28(2) of LA FOIP applies (*Guide to LA FOIP*, Chapter 4, “Exemptions from the Right of Access”, updated April 29, 2021 [*Guide to LA FOIP*, Ch. 4], pp. 240-241).

[10] 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 (*Guide to LA FOIP*, Ch. 4, p. 240). Subsection 23(1) of LA FOIP provides 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:

- (a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;
- (b) information that relates to the education or criminal or employment history of the individual or information relating to the financial transactions in which the individual has been involved;
- (c) information that relates to health care that has been received by the individual or to the health history of the individual;
- (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;
- (f) the personal opinions or views of the individual except where they are about another individual;

(g) correspondence sent to a local authority by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the content of the original correspondence, except where the correspondence contains the views or opinions of the individual with respect to another individual;

(h) the views or opinions of another individual with respect to the individual;

(i) information that was obtained on a tax return or gathered for the purpose of collecting a tax;

(j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness;

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

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

[11] In my office's [Review Report 033-2017](#), I stated at paragraph [12] that two considerations can be made to determine if information is "personal information" as follows:

1. Is there an identifiable individual? 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.

2. Is the information personal in nature? 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 only qualify if the information revealed something personal about the individual for example, information that fits the definition of employment history.

[12] The record is a property tax ledger in table form similar to one that the Town released to the Applicant; is divided into columns based on certain fields (headers) and reflects the amounts billed for property taxes and amounts paid by previous owners of the property. The fields (and header names) in the released ledger report are as follows: date of transaction, batch number, transaction code, description, amount, and balance. It also contains receipt numbers that correspond to a payment made and the title at the top of the

ledger includes the address/land location and date printed. The Town withheld the record in full, even headers, receipt numbers and the date printed, pursuant to subsection 28(1) of LA FOIP. Headers, receipt numbers and the date printed do not reveal any personal information, so should be released.

[13] It appears the information within the ledger is property tax transactions between the Town and previous owners of the Applicant's property from the year 2015 to the year 2020. The Applicant has knowledge of the previous owners' names through the Saskatchewan Land Titles Registry. On October 18, 2022, the Applicant provided a copy of their property's land title registration with the names of the previous owners to my office; therefore, there is an identifiable individual involved.

[14] Regarding the title and address or land location information at the top of the ledger, it is information that would otherwise be known to the Applicant. In past reports (e.g., [Review Report 098-2020](#) at paragraph [26]), I have stated it is an "absurd result" to withhold such information from someone who knows it. I recommend release of these line items to the Applicant.

[15] In terms of other withheld information on the ledger, the Town indicated that batch numbers were not associated with an identifiable individual, but rather were internal transaction identifiers associated with a specific time period (transaction dates). As such, I find the Town did not properly apply subsection 28(1) of LA FOIP to the transaction dates and batch numbers and recommend it release this information to the Applicant.

[16] To the extent the ledger report would contain transaction codes, the Town described the different transaction codes as follows:

RECT – Receipt Transaction no Discount for early payment

LEVY – Current year tax levied to the property

RECT-C – Receipt for Current Year Tax Payment with Discount

DISC – Amount of discount for payment of a RECT-C (Discounts are given for the current portion of taxes paid in July, August, September, October & November)

INT – Interest Calculation for late payment

TAX ENF – Tax Enforcement Charges added to roll

[17] TRF is another transaction code on the ledger. This code is described as “Transfer Interest to Tax – Credit” or “Transfer Interest to Tax – Debit” on the ledger. The Town did not provide any further description for this code.

[18] On December 19, 2022, the Town provided the following explanation to my office:

- A description of the information that is available on a typical tax certificate and is public information that is accessible to anyone by purchase. The description included the following categories of information – roll number (property identifier number), property description, tax amount levied for current year, arrears, interest, total amount owing, property class (e.g. residential), property type (e.g. land), assessed value, taxable percentage, taxable amount, exempt amount and total taxable amount. Also included in the description was whether or not there was an outstanding appeal regarding the property before the Board of Revisions or the Saskatchewan Municipal board, and if there was an intention to undertake a local improvement that will affect the land.
- A description of transactions indicated in the Record and a breakdown of codes that were used in the Record.

[19] It appears that certain transaction codes and their associated amounts, and balance figures on the ledger cannot be found in public documents such as tax certificates: RECT, RECT-C, TAX ENF and TRF. This information could reveal the financial history of the previous property owners and reveal financial transactions in which an identifiable individual has been involved and is therefore, personal information as reflected in subsections 23(1)(b) and 23(1)(j) of LA FOIP. As such, I find the Town properly applied subsection 28(1) of LA FOIP to this information and recommend the Town continue to withhold it.

[20] In an email to my office dated December 19, 2022, the Town indicated that the record however, does include other information that can be found on a tax certificate through purchase: taxes levied for the year, arrears from the previous year, interest owing from late

payment and total amount due in a given year. The Town of Ituna BYLAW #4 – 2016 provides more information on tax certificates at the following link: <https://ituna.ca/wp-content/uploads/2017/10/Bylaw-4-2016-Tax-Certificate-Cost-.pdf>.

[21] Instead of applying subsection 3(1)(a) of LA FOIP and advising the Applicant that what was sought, in part, would be contained on certificates available for purchase through the above noted bylaw, it applied exemptions. My office dealt with a similar case in my office's [Review Report 192-2016](#), which instead involved information available for purchase from ISC. The relevant excerpts from that report are as follows:

[7] Subsection 3(1)(a) of LA FOIP states:

**3(1)** This Act does not apply to:

(a) published material or material that is available for purchase by the public;

[8] The record in question appears to have been obtained by Baildon directly from ISC. A search of the land titles registry maintained by ISC for the appropriate fee would provide the Applicant with the information he seeks.

[9] As such, LA FOIP does not apply to this [sic] available information pursuant to subsection 3(1)(a) of LA FOIP.

...

[11] When Baildon provided its section 7 response to the Applicant, it chose to apply exemptions to records it had in its possession rather than referring him to ISC. Further, one of the pages of the record is a letter written by Baildon. Even though Baildon may have received it back from ISC as part of the Land Registry Packet, it originated with Baildon. As such, I will continue with the review and make a recommendation with respect to the record.

[12] I encourage all public bodies to release public information to Applicants. This especially applies if the public body has already spent taxpayer money to retrieve the information.

[22] In this case, the information in question does not appear to be from an outside source but is internal to the Town. Regardless, since it would otherwise be available for purchase, I do not find that the Town properly applied subsection 28(1) of LA FOIP to this information. I therefore, recommend the Town release these portions of the record to the Applicant as would otherwise be accessible.

**IV FINDING**

[23] I find the Town did not properly apply subsection 28(1) of LA FOIP to the record except the portions of the record described in paragraph [19] of this Report.

**V RECOMMENDATION**

[24] I recommend the Town sever the information described in paragraph [19] of this Report and release the remaining portions of the record to the Applicant, as would otherwise be accessible, within 30 days of issuance of 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