



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 337-2023

Rural Municipality of Baildon No. 131

May 30, 2024

Summary:

The Applicant made an access to information request to the Rural Municipality of Baildon No. 131 (RM). The RM denied access to all records in full. It claimed that some were exempt pursuant to subsections 14(1)(b), (d), 21(a) and (b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). It denied access to other records because the Applicant had already received copies of them in their capacity as a councillor for the RM or as a party to proceedings. It denied access to other records claiming that they had been provided to it by the Applicant. The Applicant requested that the Commissioner review the decision and the RM's search efforts. The Commissioner found that the RM did not conduct a reasonable search. He also found that the RM had control over a third party Investigator's records. In addition, the Commissioner found that the RM did not properly apply subsections 14(1)(b), (d) and 21(b) of LA FOIP. He found that the RM properly applied subsection 21(a) of LA FOIP in some cases but not all. The Commissioner further found that some of the records contain personal information that was exempt pursuant to subsection 28(1) of LA FOIP and should be withheld. The Commissioner recommended that, within 30 days of issuance of this Report, the RM conduct a search for responsive records in the records holdings of the Council members and the Investigator and provide the Applicant with a section 7 decision regarding the results of its search. He also recommended that the RM continue to withhold and release records as set out in the Appendix to this Report.

I BACKGROUND

- [1] The Applicant is a councillor of the Rural Municipality of Baildon No. 131's (RM) Council. The review relates to an access to information request received by the RM under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP)

from the Applicant on November 13, 2023. The Applicant sought access to the following information:

All documents such as notes, emails, invoices, photo's, letters etc., including all communications with Lawyers about:

1. [My] complaint against the Baildon Council ethical opposition to enforcing Bylaw Section 4.7.a.b.c.
2. And the so-called Bylaw Committee's deliberations and motion to allow [two named individuals] discretionary use of their properties.

[2] The RM responded to the Applicant by letter dated December 13, 2023, stating that it withheld copies of invoices for legal fees and services rendered pursuant to section 21 of LA FOIP. It added that, "Bylaw Committee meeting reports are presented at the next Regular meeting of Council, which you are present for."

[3] On December 23, 2023, the Applicant filed a request for a review with my office.

[4] Following conversations with my office, the RM issued a revised section 7 decision to the Applicant on January 24, 2024, stating that it denied access to some records in full pursuant to sections 14, 21 and 23 of LA FOIP. It denied access to other records in full because they had been previously provided to the Applicant as a councillor for the RM, or as a party to the RM's *Code of Ethics Bylaw* complaint investigation or other proceedings or had been provided to the RM by the Applicant.

[5] Regarding the claim to sections 14 and 23, the RM stated it did not possess the files of the third party Investigator retained to conduct the *Code of Ethics Bylaw* complaint investigation and the records would likely be subject to sections 14 and 23 of LA FOIP.

[6] Further, the RM stated that it does not possess any notes, emails, letters or other correspondence responsive to part 1, "outside of what [...] would form part of the Investigation file." Finally, it added that it did not possess any photos responsive to part 1.

- [7] The RM added that all communication regarding the named ratepayers' permit applications and the issue of the storage of vehicles on property, "generally took place verbally, either over the phone or in person" at the RM's office.
- [8] On February 16, 2024, my office sent a notice of review to the Applicant and the RM inviting them to provide my office with a submission addressing the application of subsections 21(a) and (b) of LA FOIP, the reasonableness of its search and other issues.
- [9] The RM provided my office with an affidavit, affidavit of records regarding the claim to subsections 21(a) and (b) of LA FOIP, index of records and the 302 pages of responsive records on March 18, 2024. The records included copies of records relating to its claim to subsections 21(a) and (b) of LA FOIP. In its index of records and for the first time in this review, the RM raised the claim to subsections 14(1)(b) and (d) of LA FOIP to records in the possession of the RM involving communications between it and the Investigator. I will address this late raising of discretionary exemptions below.
- [10] During the review, the RM advised my office that it claimed that subsections 21(a) and (b) of LA FOIP applied to the legal invoices. However, subsequently, in its submission and index of records, the RM stated that the invoices were subject to subsection 21(a) of LA FOIP only. Therefore, I will only be considering subsection 21(a) of LA FOIP for the legal invoices.
- [11] On April 11, 2024, the RM sent the Applicant another revised section 7 decision releasing 40 additional pages of responsive records and portions of page 38 (page 302 in the Appendix to this Report). The records released included agendas of RM Council meetings and the Administrator's handwritten notes of the meetings, an invoice from the Investigator and draft motions.
- [12] The RM provided its submission to my office on April 17, 2024. The Applicant did not provide a submission.

II RECORDS AT ISSUE

[13] The RM initially identified 302 pages of responsive records withholding them in full. On April 11, 2024, the RM identified 38 additional records and released them in full. It also released pages 190 and 191 (duplicates at pages 231 and 232) in full and portions of page 302. Therefore, there are 298 pages of records at issue here.

[14] As stated above, the RM claimed subsections 14(1)(b) and (d) of LA FOIP for the first time in its index of records. Subsection 2-4(3) of my office's [*The Rules of Procedure*](#) states, in part:

...Discretionary exemptions, not included in the head's decision under FOIP/LA FOIP, will not be considered by the commissioner's office unless there are exceptional circumstances.

[15] While the RM did not claim these exemptions in its section 7 decision, it stated that these exemptions would apply to records in the possession of the Investigator. Given that it is claiming these exemptions for emails between the RM and the Investigator in its possession, I have decided to consider the application of the exemptions in this case.

[16] I will also consider if the RM properly withheld records that were previously disclosed to the Applicant as a Council member, or as a party to a proceeding, or that were provided by the Applicant to the RM or authored by the Applicant.

[17] The records at issue and the exemptions applied to the records are set out in the Appendix to this Report.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[18] The RM qualifies as 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 conduct a reasonable search for responsive records?

[19] Section 5 of LA FOIP provides an applicant with a right of access to records in the possession or control of a local authority. It states:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a local authority.

[20] The *Guide to LA FOIP*, Chapter 3, “Access to Records”, updated May 5, 2023, (*Guide to FOIP*, Ch. 3) at page 12, states that subsection 5.1(1) of LA FOIP requires a local authority to respond to an applicant’s access to information request openly, accurately and completely. This means that local authorities should make reasonable efforts to not only identify and seek out records responsive to an applicant’s access to information request, but to explain the steps in the process.

[21] The threshold to be met is one of “reasonableness.” In other words, it is not a standard of perfection, but rather what a fair and rational person would expect or consider acceptable.

[22] The *Guide to LA FOIP*, Ch. 3, also states at page 12, that a reasonable search is one in which an employee, experienced in the subject matter of the records, expends a reasonable effort to locate records which are reasonably related to the request. What is reasonable depends on the request and related circumstances. The local authority should provide my office with detailed information about its efforts to conduct a search.

[23] A local authority may respond to an access to information request by stating that “records do not exist” in two circumstances. It may respond that way where its search for records did not produce records. Second, where records may exist, but they are not in the “possession or control” of the local authority (see my office’s [Review Report 029-2021](#)).

[24] Where the claim is that records do not exist, LA FOIP does not require that the local authority prove beyond a reasonable doubt that the records do not exist. The local authority need only provide a reasonable explanation for why the records would not exist.

[25] The *Guide to LA FOIP*, Ch. 3 at pages 14 to 15, sets out the following examples of the type of information that my office will consider in evaluating the search efforts:

- For personal information requests – explain how the individual is involved with the local authority (i.e., client, employee, former employee etc.) and why certain departments/divisions/branches/committees/boards were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches/committees/boards included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function, and subject.
- Consider providing a copy of your organization’s record schedule and screen shots of the electronic directory (folders & subfolders).
- Explain how a search of mobile electronic devices was conducted (i.e., laptops, smart phones, cell phones, tablets).
- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee’s search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided. For more on this, see my office’s resource, *Using Affidavits in a Review with the IPC*.

[26] Regarding its search efforts, the RM asserted:

- The RM has two staff members responsible for the day-to-day running of the RM who are intimately and personally aware of the kinds of documents that exist or do not exist.

- Files are organized in physical folders which are categorized by year and subject matter.
- The RM keeps records of all ingoing and outgoing correspondence, emails, invoices, receipts, agendas and meeting minutes.
- Staff have personal notebooks used to record handwritten notes during meetings or telephone calls.
- The Administrator was responsible for the search. They searched physical files that would contain responsive information and all emails and personal notes were reviewed.

[27] The RM also provided an affidavit sworn by the Administrator verifying the points made above. In addition, the Administrator attested to the following:

- With respect to the Applicant, the RM maintains a file for their sale of property, development appeals, ethics complaints and various other legal matters.
- The Applicant's ethics complaint and the bylaw committee files were searched.
- With respect to the request for photos, the only photos that the RM has in its possession or control are those that were received from the Applicant.

[28] The RM conducted a second search for records during the review. The RM issued a revised section 7 decision releasing more information to the Applicant including some agendas and handwritten notes. However, I note that the Administrator did not provide any information about a search of records that may be in the possession of the Council members, including Council members' email accounts.

[29] LA FOIP applies to a councillor's records when they are created or maintained while performing work related to the RM's mandate and/or function. The Administrator's search efforts should have included a search of records in the possession of Council members. Where Council members use personal email accounts for RM business, then the search should include a search of their personal email accounts (see *Guide to LA FOIP*, Ch. 3 at page 18).

[30] For these reasons, I find that the RM did not conduct a reasonable search for records. I recommend that, within 30 days of the issuance of this Report, the RM conduct a search for responsive records in the record holdings of the Council members and issue a section 7 decision regarding the results of the search.

[31] I now turn to consider the RM's claim that the Investigator's file is not in its possession or control. The right of access in section 5 of LA FOIP is to records that are in the possession or under the control of a local authority.

[32] Definitions for "possession" and "control" are set out in my office's *Guide to LA FOIP*, Chapter 1, "Purposes and Scope of LA FOIP", updated March 7, 2023, at pages 9 to 10. "Possession" is defined as physical possession plus a measure of control over the record. Mere possession is not enough, there must be some right to deal with the records and some responsibility for their care and protection.

[33] "Control" connotes authority. A record is under the control of a local authority when it has the authority to manage the record including restricting, regulating, and administering its use, disclosure or disposition. To determine whether a local authority has a measure of control over a record, my office uses the following two-part test which is set out in the *Guide to LA FOIP*, Ch. 1 at pages 10 to 11:

1. Do the contents of the record relate to a local authority matter?
2. Can the local authority reasonably expect to obtain a copy of the document upon request?

[34] Whether a record is in the possession or control of the local authority is a separate question from whether LA FOIP permits, prohibits or requires release of the information to the Applicant. The release of the information is determined by the application of exemptions.

[35] The RM asserted that it did not have possession or control of the Investigator's file. It stated:

73. When a complaint is made pursuant to the *Code of Ethics Bylaw*, the complaint must be investigated. The investigator may be a committee of Council or a third-party investigator. [The Administrator] hired a third-party investigator to investigate the 2023 Ethics Complaint because [the Applicant] named all of Council in the 2023 Ethics Complaint making it inappropriate for a committee of Council or the Administrator to investigate. Following receipt of the complaint, [the Administrator] hired [a third party Investigator] to complete the investigation pursuant to the process set out in the *Code of Ethics Bylaw*.

...

75. ... [The third party Investigator] was not, and is not, an employee of [RM]. Indeed, in order to properly perform her function as a truly independent investigator, she was required to remain as independent from [RM] as possible. Outside of the correspondence between [the RM] and [the third party Investigator], there is no formal agreement or contract that was entered into between [RM] and the Investigator.

76. Subsection 2(1)(b.1) of LAFOIP defines “employee” as an individual employed by a local authority and includes an individual retained under a contract to perform services for the local authority. [RM] acknowledges that, absent a contextual analysis, this definition could apply to [the third party Investigator]. However, the “contract to perform services” in this case was for the purposes of conducting an independent investigation. Concluding that [RM] nevertheless had “possession and control”, and by extension, implicitly, an ability to alter, that investigation file would wholly undermine the independent nature of the Investigator’s role.

77. As mentioned, a record is under the control of a local authority when the local authority has the authority to manage the record, including restricting regulating and administering its use, disclosure or disposition. [RM] has no authority to restrict, manage or regulate [the third party Investigator’s] investigation file.

[36] Based on the submission and the affidavit filed by the RM, I am satisfied that the RM does not have possession of records from the Investigator’s file relating to the Applicant’s *Code of Ethics Bylaw* complaint.

[37] Regarding control, because the Investigator was retained by the RM to conduct an investigation into a *Code of Ethics Bylaw* complaint, the records generated in the investigation were related to a local authority matter.

[38] The second part of the test is whether the RM could reasonably expect to obtain a copy of the records upon request. All factors must be considered when determining the second question including the substantive content of the record, the circumstances in which it was

created and the legal relationship between the local authority and the record holder (*Guide to LA FOIP*, Ch. 1 at page 12). The factors to consider are:

- The record was created by a staff member, an officer, or a member of the local authority in the course of their duties performed for the local authority.
- The record was created by an outside consultant for the local authority.
- The public body possesses the record, either because it has been voluntarily provided by the creator or pursuant to a mandatory or statutory or employment requirement.
- An employee of the public body possesses the record for the purposes of his or her duties performed for the public body.
- The record is specified in a contract as being under the control of a public body and there is no understanding or agreement that the records are not to be disclosed.
- The content of the record relates to the local authority's mandate and core, central or basic functions.
- The local authority has a right of possession of the record.
- The local authority has the authority to regulate the record's use and disposition.
- The local authority paid for the creation of the records.
- The local authority has relied upon the record to a substantial extent.
- The record is closely integrated with other records held by the local authority.
- A contract permits the local authority to inspect, review and/or possess copies of the records the contractor produced, received, or acquired.
- The local authority's customary practice in relation to possession or control of records of this nature in similar circumstances.
- The customary practice of other bodies in a similar trade, calling or profession in relation to possession or control of records of this nature in similar circumstances.
- The owner of the records.

[39] I have not been provided with copies of any of the records that may be in the possession or under the control of the Investigator.

[40] The RM stated that there is no “formal agreement or contract” between the RM and the Investigator. It asserted that the RM had no authority to manage the Investigator’s file including restricting, regulating and administering its use, disclosure or disposition.

[41] I note that the only information in the records that touches on the issue of control is an email from the Investigator describing the investigation as “external” and noting that the Administrator for the RM will assist with related administrative matters. It is also clear from the records that the Investigator charged the RM for their services.

[42] When entering into a contract with a third party for goods or services, the public body should carefully consider how access to information and privacy will be addressed. In this case, it appears that these issues were not addressed in an agreement or otherwise. Other than the RM’s bald assertion about its lack of authority to manage the records, there is little evidence to support its position.

[43] In looking at the relationship between the Investigator and the RM, I am mindful of the broad definition of “employee” in subsection 2(1)(b.1) of LA FOIP. That subsection states:

2(1) In this Act:

...

(b.1) “**employee of a local authority**” means an individual employed by a local authority and includes an individual retained under a contract to perform services for the local authority;

[44] The RM stated that the Investigator was not an employee of the RM and that the question of whether the Investigator was an employee required a contextual analysis. I disagree. The Investigator was an individual retained under a contract to perform services for the RM. Therefore, the Investigator qualified as an employee pursuant to subsection 2(1)(b.1) of LA FOIP.

[45] Whether the Investigator was an employee is only one factor to consider and it is not determinative in itself. This is illustrated in previous reports where my office found that a

local authority does not “possess” or “control” private communications of its employees unrelated to the local authority’s business (*Guide to LA FOIP*, Ch. 1, at page 11.)

[46] Before I turn to consider the factors that weigh in favour or against a finding of control, I will review some decisions of other Canadian access to information oversight authorities.

[47] The October 2023 findings of the Ontario Information and Privacy Commissioner (ON IPC) in [Order MO-4447](#), are helpful here. In that case, the ON IPC found that records relating to an investigation conducted by the Toronto District School Board’s (TDSB)’s Integrity Commissioner (IC), who was also a member of the TDSB Board, were not within the control of the TDSB. The finding was based on the fact that there was a contract between the IC and the TDSB which stated that the IC maintains custody and control of their complaint and inquiry files and on completion of their term the files are to be transferred to the new IC.

[48] With respect to the role of the IC vis-à-vis the Board, the adjudicator stated:

[63] The IC may be an “officer” of the board in the generic sense of that word, but the IC was created to be an independent contractor as indicated in the contract between the board and the IC.

[49] Similar circumstances existed in British Columbia’s Information and Privacy Commissioner’s (BC IPC) [Order F16-15](#), where a public body retained the services of an arbitrator to investigate an applicant’s harassment complaint. The adjudicator concluded that the public body did not have control over the arbitrator’s investigative file. While there was no contract in place, the terms of reference for the arbitrator’s work stated that the parties would not seek production of the arbitrator’s notes. The adjudicator stated:

[23] In this case, the applicant’s complaint was a highly contentious one in a labour relations sphere involving multiple represented parties. The District is undeniably connected to two of the parties (*i.e.*, the Board and Police Department), and the evidence clearly establishes that the District made a concerted effort to establish an independent and impartial resolution process. This effort is expressly reflected in its proposed Terms of Reference. In my view, it is unlikely that the District would have undermined this independence by retaining control over the arbitrators’ work, given

that doing so may have raised questions regarding the arbitrators' impartiality and the integrity of the process.

[24] In summary, based on the District's evidence that it believes it has no legal right to the arbitrators' notes for any purpose, which is consistent with the surrounding circumstances and evidence, I find that the records requested by the applicant are not under the control of the District.

[50] I note that a different conclusion was reached by the Nunavut Information and Privacy Commissioner (NU IPC) in [Report Number 21-188](#), involving the Department of Health and a request for access to records relating to harassment complaints. The Investigator in this case was a lawyer in a private law firm. There was no written agreement in place or terms of reference that determined how records would be managed. The NU IPC found that a senior official of the government should be able to obtain a copy of the Investigator's notes and found that the government had control over the Investigator's records.

[51] In arriving at this conclusion, the adjudicator followed another decision of the BC IPC where the adjudicator found that the public body had control over the records of an external investigator retained to investigate harassment complaints. In [Order 04-19](#), the adjudicator stated while contractual provisions may be relevant to control, public bodies cannot contract out of access to information laws. It emphasized the School District's responsibility for conducting harassment investigations regardless of whether it uses an employee or a contractor to complete the investigation.

[52] Turning to the case before me, I note that the following factors weigh in favour of a finding that the RM had control of the Investigator's files:

- The Investigator falls within the definition of an employee in subsection 2(1)(b.1) of LA FOIP.
- The content of the record relates to the RM's mandate and basic functions. The RM had a legislative responsibility to pass a *Code of Ethics Bylaw* pursuant to section 93.1 of *The Municipalities Act*. Under the Bylaw it was required to conduct an investigation of complaints. According to the Bylaw, it had the option of conducting an internal investigation or retaining an external person. In both instances, the process for completing the investigation was defined in the Bylaw and the requirements for confidentiality applied to both types of investigations.

- The RM retained and paid for services which would ordinarily indicate that it has control over the work product of the Investigator such as in [Review Report 108-2021, 152-2021](#), where I found that the Department of Highways (Highways) had control over a record prepared by a third-party consulting firm at Highways' request.
- The RM has relied on the Investigator's work and final report.
- There is no evidence before me regarding the RM's authority to regulate the use and disposition of the Investigator's file or the RM's customary practices other than its bald assertion that it did not have the authority. For example, unlike the circumstances of ON IPC Order MO-4447 and BC IPC Order F16-15, there was no contract or terms of reference to describe the role of the Investigator and how records would be managed.
- A finding that the Investigator's file is not in the control of the RM would undermine the transparency purposes of LA FOIP. This is because it would enable the RM to retain the services of an outside investigator, as opposed to managing it internally, as a way to shield the investigative records from LA FOIP rights of access. It would also create a double standard for transparency for these investigations depending on whether the investigation was conducted internally or externally. Here it is worth noting that this is the second ethics complaint filed by the Applicant and in both cases an external investigator was used.

[53] The following factors weigh against a finding that the RM had control of the Investigator's file:

- The RM did not have possession of the records of the records.
- Given that the complaint was made against all of the councillors of the RM, no one other than the Administrator, or an outside investigator, could investigate the complaint.
- The record is not closely integrated with other records held by the RM. There is no evidence that the Investigator intended to use their file for any other purpose.

[54] In the absence of any agreement or terms of reference regarding the Investigator's records, I will follow the same approach taken by the BC IPC in Order 04-19 and the Nunavut IPC in Report 21-188. Weighing all of these factors, I find that the RM had control over the Investigator's records. I hasten to add that my finding should not be taken as a reflection of whether the investigation was impartial or not. That issue is not before me.

[55] In the future, I recommend the RM should ensure that its contracts with third parties include provisions defining roles and responsibilities relating to access, privacy, confidentiality and security of personal information. This should help the RM in responding to requests such as this one and will ensure measures are in place to protect personal information.

[56] I recommend that the RM, within 30 days of the issuance of this Report, conduct a search for responsive records in the records holdings of the Investigator and provide the Applicant with a section 7 decision regarding the results of its search.

3. Does the RM have an obligation to provide the Applicant with records already provided to them or that were provided by them to the RM?

[57] The RM's section 7 decision advised the Applicant that it would not grant access to records responsive to part two of the request because the records were made available to them previously, as a member of Council, via Dropbox or as a party to proceedings. The RM also denied access to records that it claimed the Applicant provided to it or authored.

[58] The section 7 decision did not describe the records or explain how they were responsive to the Applicant's access to information request. Also, the RM did not apply any exemptions to these records.

[59] Section 10 of LA FOIP sets out the rules regarding the manner of access. That provision states:

10(1) Where an applicant is entitled to access pursuant to subsection 9(1), the head shall provide the applicant with access to the record in accordance with this section.

(2) A head may give access to a record:

(a) by providing the applicant with a copy of the record; or

(b) where it is not reasonable to reproduce the record, by giving the applicant an opportunity to examine the record.

[60] In my office's [Review Report 156-2017 & 264-2017](#), a local authority denied access to records because the records had previously been provided to the Applicant, also a councillor, via Dropbox or otherwise. In that case, I found that the local authority was required to provide the Applicant with copies of the records if they were not exempt.

[61] In this case, the RM has not claimed that the information previously provided to the Applicant or provided to it by the Applicant is exempt. It appears to have claimed that it is not obligated to release the records, but it does not explain why. There is no indication that the RM took steps to clarify with the Applicant if they sought release of these records. If the RM had provided the Applicant with a description of the responsive records setting out its position on release, it may have been able to resolve the issue of access in relation to these records. Doing so would have avoided time and expense arising from the need to address the issues during a review.

[62] Similarly, with respect to the records provided to the RM by the Applicant, the RM has not claimed that they are exempt. It would be absurd to withhold these records in this case.

[63] Consistent with the approach I have taken in the previous review reports, I find that the RM has an obligation to provide these records to the Applicant and that the RM did not comply with subsection 10(2) of LA FOIP. I recommend that, within 30 days of the issuance of this Report, the RM provide copies of these records to the Applicant. Details are set out in the Appendix to this Report. In the future, the RM should take steps to clarify with applicants whether they wish to receive copies of documents such as these before processing the access to information request.

4. Did the RM properly apply subsection 21(a) of LA FOIP?

[64] The RM applied subsection 21(a) of LA FOIP to withhold records in full and portions of page 302. The details are set out in the Appendix to this Report. The RM provided my office with copies of all the records to which it applied subsection 21(a) of LA FOIP.

[65] I note that the RM claimed that pages 241 and 242, were exempt pursuant to subsection 21(a) of LA FOIP in its index of records. However, according to the affidavit of the Administrator sworn on April 11, 2024, copies of pages 241 and 242, with some additional handwritten notes, were released to the Applicant. It would be absurd to find that these pages are exempt in these circumstances. Therefore, I recommend that the RM release pages 241 and 242 to the Applicant within 30 days of the issuance of this Report. Details are set out in the Appendix to this Report.

[66] Subsection 21(a) of LA FOIP provides:

21 A head may refuse to give access to a record that:

(a) contains any information that is subject to any privilege that is available at law, including solicitor-client privilege;

[67] My office's *Guide to LA FOIP*, Chapter 4, "Exemptions from the Right of Access", Updated October 18, 2023, (*Guide to LA FOIP*, Ch. 4) at page 223, provides that subsection 21(a) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where a record contains information that is subject to any legal privilege, including solicitor-client privilege.

[68] The RM has claimed that the information withheld under subsection 21(a) of LA FOIP is subject to solicitor-client privilege and litigation privilege. I will consider its claim to solicitor-client privilege first.

Solicitor-client privilege

[69] The purpose of solicitor-client privilege is to assure clients of confidentiality and enable them to speak honestly and candidly with their legal representatives. The *Guide to LA FOIP*, Ch. 4 at pages 225 to 232, sets out the following three-part test that my office uses to determine if the privilege applies:

1. Is the record a communication between solicitor and client?
2. Does the communication entail the seeking or giving of legal advice?

3. Did the parties intend for the communication to be treated confidentially?

[70] The privilege only applies where the parties involved in the communication qualify as solicitor and client. Page 226 of Ch. 4 of the *Guide to LA FOIP*, sets out the following definitions for “solicitor” and “client”:

- “Solicitor” means a lawyer who is duly admitted as a member and whose right to practice is not suspended. “Lawyer” means a member of the Law Society and includes a law student registered in the Society’s pre-call training program.
- “Client” means a person who:
 - Consults a lawyer and on whose behalf the lawyer renders or agrees to render legal services; or
 - Having consulted the lawyer, reasonably concludes that the lawyer has agreed to render legal services on his or her behalf;

and includes a client of the law firm of which the lawyer is a partner or associate, whether or not the lawyer handles the client’s work.

[71] Based on a review of the records, the RM consulted the lawyer in relation to various matters and the lawyer provided legal services. I also note that the lawyers involved are currently members of the Law Society of Saskatchewan and licensed to practice law in Saskatchewan. Therefore, the RM qualifies as a client and the lawyers qualify as the solicitors in this matter.

[72] I will first consider the RM’s application of subsection 21(a) of LA FOIP to legal invoices and remittance forms at pages 237 to 239 and 289 to 300, because there is a presumption of solicitor-client privilege that applies to these records.

[73] Legal billing information is presumed to be privileged information unless the presumption is rebutted. Therefore, it is not absolute. This approach is based on the decision of the Supreme Court of Canada in *Maranda v. Richer*, [2003 SCC 67](#) (CanLII) (*Maranda*).

[74] The *Maranda* decision considered privilege in the context of a search warrant. Since *Maranda*, the courts and access to information oversight authorities have fleshed out the

appropriate approach to the presumption and rebuttal analysis in an access to information context.

[75] To determine if the presumption is rebutted, my office asks:

1. Is there any reasonable possibility that disclosure of the information on the invoice will directly or indirectly reveal any communication protected by the privilege?
2. Could an assiduous inquirer, aware of background information, use the information requested to deduce or otherwise acquire privileged communications? If the information is neutral, then the presumption is rebutted. If the information reveals or permits solicitor-client communications to be deduced, then the privilege remains.

[76] My office has applied the presumption in previous reports such as [Review Report 003-2017](#), [Review Report 229-2017](#), [031-2017 Part II](#), [Review Report 238-2020](#) and [Review Report 150-2023](#).

[77] The same approach has been followed by the ON IPC in relation to the legal invoices, such as in [Order PO-2483](#) and [Order MO-3253-I](#). It has also been followed by the BC IPC's office in [Order F21-52](#) and recently in [Order F23-81](#).

[78] Whether the presumption has been rebutted in any given case depends on the information in the records and the surrounding circumstances. In Order F21-52, the BC IPC set out the following list of potential considerations:

- if the disputed billing information relates to litigation matters, the stage of the litigation;
- how detailed the disputed billing information is;
- how many legal matters the billing information relates to;
- the extent of the applicant's involvement in the legal matters;
- the extent of the applicant's pre-existing knowledge about the legal matters; and
- the publicly available knowledge that an assiduous inquirer could use to draw inferences about privileged information.

[79] An analysis that requires an examination of the records, the submissions and all of the circumstances surrounding the request and the provision of legal services, recognizes the disadvantage applicants face when asked to make an argument rebutting a presumption in relation to information that they have not seen. The lack of a submission from the Applicant addressing the presumption is not determinative.

[80] The RM asserted that the amount incurred for legal fees in any invoice can disclose information that is protected. By way of example, it states that a large expenditure in the absence of active litigation or negotiation could reveal or suggest that legal proceedings will soon be commenced or that a transaction is about to take place. It added that the Applicant was adverse in interest to the RM and the amount in an invoice, particularly if it is high, can suggest an inference that the RM had strategic reasons for incurring legal fees in relation to the Applicant. It concluded by stating that the Applicant is unable to rebut the presumption.

[81] The RM cited ON IPC [Order PO-2484](#), which considered a request for access to information for legal invoices. In that Order, the ON IPC adjudicator found that the total dollar figure in each of the invoices at issue was neutral information that ought to be disclosed but the other information in the invoices, including the dates of the invoices, was exempt. In arriving at this conclusion, the Senior Adjudicator emphasized the need to examine the unique circumstances of each case and stated:

In the present appeal, we are not dealing with a situation where access to billing information is sought for the purpose of proving a crime, as in *Maranda*; rather, the records relate to the cost of government legal services in relation to litigation before the HSARB. In *Maranda*, it appears that if a high volume of fees had been paid, an inference could be drawn regarding the fruits of criminal activity. No such inference can be drawn here.

[82] He then stated:

However, if the only information to be disclosed is the total dollar figure on each invoice, and nothing else ..., the situation is different. With dates and number of hours severed, I am unable to conclude that the appellant could infer privileged information.

[83] The RM also described previous reports from my office where we have found that portions of a legal invoice were not subject to the presumption such as the name of the law firm, invoice number and the total amount of an invoice. For example, I have recommended the release of the total amount owing for legal fees in Review Reports [003-2017](#), [276-2019](#), [277-2019](#) and [191-2023](#).

[84] As to whether the invoices should be withheld in their entirety, the RM added:

117. Finally, [the RM] notes that because [the Applicant] is adverse in interest to [the RM] in relation to the invoices he seeks access to, he is not (and has not been) permitted to participate in Council's vote authorizing payment of the invoices (and any related review of the invoices that Council might wish to engage in further to that process). This is because [the Applicant] is in a conflict of interest in relation to them, pursuant to the clear language of *The Municipalities Act*. Section 141.1(1) of *The Municipalities Act* states:

141.1(1) A member of council has a conflict of interest if the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows or ought reasonably to know that in the making of the decision there is the opportunity to further his or her private interests or to improperly further another person's private interests.

118. The Baidon *Code of Ethics Bylaw* has a similar definition of "conflict of interest".

119. Pursuant to s. 144(1) of *The Municipalities Act*, where there is a conflict of interest within the meaning of *The Municipalities Act* and/or the *Code of Ethics Bylaw*, the council member is required to declare the conflict of interest, abstain from voting on any question, decision, recommendation or other action to be taken, refrain from participating in any discussion relating to the matter, and leave the room in which the meeting is being held.

120. Granting [the Applicant] access to these invoices under LA FOIP would permit [them] to do indirectly what he cannot do directly: have access to information, including legal advice, in relation to matters for which the Legislature of Saskatchewan has dictated that he is in a conflict of interest.

[85] The presumption of solicitor-client privilege applies to the six invoices at pages 237 to 239 and 289 to 300 that the RM withheld in full. The invoices include detailed information about work carried out, dates when legal services were provided, time spent and amounts per specific services. Some of the invoices relate to multiple different matters or issues. Given the Applicant's preexisting knowledge and involvement in the matters, the release

of this information would enable an assiduous inquirer to discern privileged information. There is no information in the records, the submissions or the surrounding circumstances that would rebut the presumption of privilege as it applies to this information. Accordingly, I find that the presumption prevails for this information.

[86] However, I arrive at a different conclusion in relation to legal counsel's letterhead which appears at the top of the invoices, client's name and address, and the total amount charged per invoice. I recognize that the Applicant has knowledge of the matters between them. However, as noted above some of the invoices in question relate to a variety of matters. None of the invoices involve ongoing litigation. Given that I have recommended that the dates of the invoices be withheld from all invoices, it will be difficult for an assiduous inquirer to deduce privileged information if this information was released.

[87] In these circumstances, the release of the letterhead, client name and address, and the total amounts charged per invoice would not be sufficient to enable an assiduous inquirer to deduce the privileged content of confidential solicitor-client communications. Having reviewed the submissions and the records, there is no reasonable possibility that disclosure of this information from each invoice would reveal, directly or indirectly, communications subject to solicitor-client privilege. Therefore, regarding this information and in this case, the presumption has been rebutted.

[88] Attached to the invoices are remittance forms. They repeat the invoice number, file number, client name and address and the total amount of the invoice. They also include banking related information required to pay the invoices. The Applicant has advised my office that they are not interested in obtaining access to banking related information. Therefore, I find that the banking related information is not responsive to the request.

[89] My findings above regarding the invoices apply equally to the information on the remittance forms. Therefore, the presumption has been rebutted for legal counsel's letterhead, the client's name and address and the total amount of each invoice as it appears on these forms.

[90] With respect to the RM's argument regarding conflict of interest and subsections 141.1(1) and 144(1) of *The Municipalities Act* (MA), subsection 22(1)(a) of LA FOIP applies. Subsection 141.1(1) of the MA is set out in paragraph [84] above. Subsection 144(1) of the MA states:

144(1) If a member of council has a conflict of interest in a matter before the council, a council committee, a controlled corporation or other body, the member shall, if present:

- (a) before any consideration or discussion of the matter, declare that he or she has a conflict of interest;
- (b) disclose the general nature of the conflict of interest and any material details that could reasonably be seen to affect the member's impartiality in the exercise of his or her office;
- (c) abstain from voting on any question, decision, recommendation or other action to be taken relating to the matter;
- (d) subject to subsection (4), refrain from participating in any discussion relating to the matter; and
- (e) subject to subsections (3) and (4), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

[91] Subsection 22(1) of LA FOIP states:

22(1) Where a provision of:

- (a) any other Act;
- (b) a regulation made pursuant to any other Act; or
- (c) a resolution or bylaw;

that restricts or prohibits access by any person to a record or information in the possession or under the control of a local authority conflicts with this Act or the regulations made pursuant to it, the provisions of this Act and the regulations made pursuant to it shall prevail.

(2) Subject to subsection (3), subsection (1) applies notwithstanding any provision in the other Act, regulation, resolution or bylaw that states that the provision is to apply notwithstanding any other Act or law.

(3) Subsection (1) does not apply to:

(a) *The Health Information Protection Act*;

(a.01) Part VIII of *The Vital Statistics Act, 2009*;

(a.1) any prescribed Act or prescribed provisions of an Act; or

(b) any prescribed regulation or prescribed provisions of a regulation;

and the provisions mentioned in clauses (a), (a.01), (a.1) and (b) shall prevail.

[92] Subsections 141.1(1) and 144(1) of the MA are not listed in subsection 22(3) of LA FOIP or in section 8.1 of *The Local Authority Freedom of Information and Protection of Privacy Act Regulations*. I also note that subsections 141.1 and 144 of the MA do not restrict or prohibit access to records. Moreover, even if the MA restricted access to these records, subsection 22(1)(a) of LA FOIP clearly provides that LA FOIP prevails. I find that the RM cannot rely on subsections 141.1(1) and 144(1) of the MA to withhold records or portions of records.

[93] Taking into account the circumstances of this case, I find that the RM did not properly apply subsection 21(a) (solicitor-client privilege) of LA FOIP to the law firm letterhead, client's name and address, and the total amount owing on each invoice and remittance form. As the RM also claimed litigation privilege for this information, I will consider below if the information is subject to litigation privilege, which is also protected by subsection 21(a) of LA FOIP, before I make a recommendation to release or withhold it.

[94] I find that the RM properly applied subsection 21(a) of LA FOIP to the remaining information. I recommend that the RM continue to withhold this information. Details are set out in the Appendix to this Report.

[95] Before I leave this issue, I note that the RM's submission suggested that my office's [Review Report 117-2019](#), which also involved the RM, encouraged the RM to continue to withhold legal invoices. Contrary to what is suggested by the RM, my findings and recommendations in Review Report 117-2019, only applied to the 72 pages of records at issue in that review. I stated:

[13] I find that the invoices were intended to be confidential.

...

[15] I find, therefore, that subsection 21(a) of LA FOIP has been properly applied to the 72 pages of the record and that the R.M. has the discretion to continue to withhold them.

...

[17] I recommend that the R.M. continue to withhold the records pursuant to subsection 21(a) of LA FOIP.

[96] The recommendation did not apply to any future invoices that may be the subject of future access to information requests. Further, the findings and recommendations were made based on the circumstances before me in that review which do not exist here. As noted above, in applying the presumption and considering if it has been rebutted, I am required to decide each case on a case-by-case basis.

[97] I now turn to consider if each part of the three-part test has been met for the remaining information.

1) Is the record a communication between solicitor and client?

[98] The *Guide to LA FOIP*, Ch. 4 at page 233, provides the following definition of “communication”:

- A “communication” is the process of bringing an idea to another’s perception; the message or ideas so expressed or exchanged; the interchange of messages or ideas by speech, writing, gestures or conduct.

[99] Pages 193 to 196, 215, 217, 233 to 236, 240 to 258, 278 to 282, and 284 to 288, are emails and, in some cases, attachments of other emails and documents, that qualify as communications between legal counsel and their client, the RM. Therefore, part one of the test has been met for these records.

[100] The RM asserted that page 301 and portions of page 302, contain notes of telephone calls and meetings between its lawyers and the administrator for the RM, the client. It is apparent from a review of the notes and the submission that the notes include information that

qualifies as a communication between the RM and its legal counsel. Part one of the test has been met for these records.

2. Does the communication entail the seeking or giving of legal advice?

[101] The *Guide to LA FOIP*, Ch. 4 at page 228, provides that “legal advice” means a legal opinion about a legal issue, and a recommended course of action, based on legal considerations, regarding a matter with legal implications. The privilege applies not only to the records that reveal the legal advice but also to those that seek it and that provide factual information relating to the request for advice.

[102] In applying all exemptions, section 8 of LA FOIP requires local authorities to conduct a line-by-line review of records, including email records that may contain information that is subject to subsection 21(a) of LA FOIP. Section 8 of LA FOIP states:

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused.

[103] The line-by-line analysis requires a review of the headers, footers, subject lines and confidentiality statements in email records to determine if they contain information that entails the seeking or giving of legal advice (see for example Review Reports [009-2023](#) and [188-2022](#)).

[104] Based on a review of the email records, I am not persuaded that the headers, footers and confidentiality statements contain information that entails seeking or giving of legal advice. Therefore, part two of the test has not been met for this information. Accordingly, I find that the RM did not properly apply subsection 21(a) (solicitor-client privilege) of LA FOIP to it. I will consider later in this Report if this information is exempt as litigation privilege or pursuant to subsection 21(b) of LA FOIP.

[105] I now turn to consider the subject lines and body of the email, and the attachments, and the meeting notes, and whether they entail the seeking or giving of legal advice.

[106] My office's *Guide to LA FOIP*, Ch. 4 at page 227, states that the privilege does not necessarily apply to attachments to documents (e.g., attachments to emails) even those attached to genuine legal advice unless it is an integral part of a legal opinion. For example, where the attachment provides some basis for a reader to determine some or all of the opinion or advice it may be considered integral. The party claiming privilege over an attachment must provide some basis for the claim.

[107] Based on a review of the records, I am satisfied that the subject line and body of the emails entail the giving or seeking of legal advice. I am also satisfied that where the RM has claimed that an attachment is subject to subsection 21(a) of LA FOIP, the attachments are an integral part of the legal advice or opinion. Their release would reveal information about the legal advice sought or given. I am also satisfied that the notes on pages 301 and the withheld portions of page 302, entail the giving or seeking of legal advice. Therefore, part two of the test has been met for these records.

3. Did the parties intend for the communication to be treated confidentially?

[108] For the third part of the test, I must determine if there is an expectation on the part of the RM that the communication will be confidential. Page 237 of the *Guide to LA FOIP*, Ch. 4, provides that conduct which is inconsistent with an expectation of confidentiality can constitute a waiver of privilege.

[109] The RM asserted that the parties to the communications intended for the communication to be treated confidentially.

[110] Having reviewed the records at issue, it appears that the parties intended the communication to be treated confidentially. Therefore, the third part of the test has been met. Accordingly, I find that the RM properly applied subsection 21(a) (solicitor-client privilege) of LA FOIP to some information but not all. Details are set out in the Appendix.

Litigation privilege

[111] The RM claimed, in the alternative, that the legal invoices and emails and attachments were subject to litigation privilege which is protected pursuant to subsection 21(a) of LA FOIP. Therefore, in the analysis that follows I will consider if the letter head, client name and address and total amount owing on invoices, and the headers, footers and confidentiality statements in the emails are subject to litigation privilege.

[112] “Litigation privilege” protects documents, which come into existence after litigation is commenced or created or made in contemplation of litigation (*Guide to LA FOIP*, Ch. 4 at page 232). The purpose of litigation privilege is to create a “zone of privacy” in relation to pending or apprehended litigation. To achieve its purpose, parties to litigation, represented or not, must be left to prepare their contending positions in private, without adversarial interference and without fear of premature disclosure (*Guide to LA FOIP*, Ch. 4 at page 232).

[113] As set out in my office’s *Guide to LA FOIP*, Ch. 4 at page 241, litigation privilege attaches to documents created for the dominant purpose of litigation. The “dominant purpose” for creating or obtaining the records must be to decide whether to initiate, or to prepare for, litigation. It cannot be standard operational procedure to prepare such records for various reasons, only one of which is to prepare for litigation.

[114] My office applies the following two-part test where litigation privilege is claimed:

1. Has the record or information been prepared for the dominant purpose of litigation?
2. Is the litigation ongoing or anticipated?

[115] The RM asserted that the Applicant has previously sought to appeal any ruling on the discretionary use applications. It added that given the Applicant’s past actions and continued representations to the RM’s Administrator that they intend to take further action, the RM properly withheld these records on the basis of litigation privilege. The RM also asserted that the records were prepared in contemplation of litigation.

[116] As noted above, part one of the test requires that the RM establish that the records in question were prepared for the dominant purpose of litigation. The headers, footers and confidentiality statements in the emails, do not include information that was prepared for the dominant purpose of litigation. Nor does the letterhead, client name and address and total amount of the invoices at issue meet part one of the test. I find that part one of the test has not been met for this information. Therefore, it is not necessary for me to consider if part two of the test has been met.

[117] I find that the RM did not properly apply subsection 21(a) (litigation privilege) of LA FOIP to the invoices and remittance forms. As no other exemptions have been claimed for this information, I recommend that the RM, within 30 days of issuance of this Report, release the letterhead, client name and address and the total amount owing on the invoices and remittance statements to the Applicant. The details are set out in the Appendix to this Report.

[118] I will consider below if the headers, footers and confidentiality statements in the emails are exempt pursuant to subsection 21(b) of LA FOIP.

5. Did the RM properly apply subsection 21(b) of LA FOIP?

[119] In light of my findings above, I need only consider if the RM properly applied subsection 21(b) of LA FOIP to the headers, footers and confidentiality statements in the email records.

[120] Subsection 21(b) of LA FOIP provides:

21 A head may refuse to give access to a record that:

...

(b) was prepared by or for legal counsel of the local authority in relation to a matter involving the provision of advice or other services by legal counsel; or

[121] Subsection 21(b) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where a record was prepared by or for legal counsel for a local authority in

relation to the provision of advice or services by legal counsel. This provision is broader in scope than subsection 21(a) of LA FOIP.

[122] My office applies the following two-part test to determine if subsection 21(b) of LA FOIP was properly claimed:

1. Were the records “prepared by or for” legal counsel for a local authority?
2. Were the records prepared in relation to a matter involving the provision of advice or other services by legal counsel?

[123] The RM asserted that the records met both parts of the test under subsection 21(b) of LA FOIP for the following reasons:

First, the communication was prepared either by [the RM] for legal counsel, or by legal counsel for [RM]. Secondly, the records relate to a matter that involves the provision of advice or services by legal counsel. With respect to Request 1, legal counsel advised Baidon on the process under the *Code of Ethics Bylaw* process in response to the 2023 Ethics Complaint. With respect to Request 2, legal counsel provided advice with respect to [information redacted]. [The Applicant] is adverse in interest to both these matters. These records are appropriately withheld pursuant to s. 21(b) of LAFOIP.

[124] “Prepared” means to be ready for use or consideration. By or for means the person preparing the record must be either the person providing the legal advice or a person who is preparing the record in question on behalf of or for the use of the provider of legal advice.

[125] Regarding part two of the test, my office’s *Guide to LA FOIP*, Ch. 4 at page 250, sets out the following definitions. “Legal advice” includes a legal opinion about a legal issue, and a recommended course of action, based on legal considerations, regarding a matter with legal implications. “Legal service” includes any law-related service performed by a person licensed engaged by the local authority and who is licensed to practice law.

[126] Taken as a whole, the emails in question may have been prepared in relation to matters involving the provision of advice or services by the RM’s legal counsel. However, the headers, footers and confidentiality statements in the emails were not *prepared* in relation to matters involving legal advice and services. They are standard form, autogenerated, parts

of an email, much like a template form. Therefore, this information would not meet part two of the test.

[127] The headers, footers and confidentiality statements in the emails do not qualify for exemption pursuant to subsection 21(b) of LA FOIP as they do not contain information prepared by or for legal counsel in relation to a matter involving legal advice or services.

[128] This information can be reasonably severed from the non-exempt portions of all emails and no other exemptions have been claimed for this information. I recommend that, within 30 days of issuance of this Report, the RM sever the exempt information and release the headers, footers and confidentiality statements to the Applicant. Details are set out in the Appendix.

6. Did the RM properly apply subsection 14(1)(b) of LA FOIP?

[129] The RM applied subsection 14(1)(b) of LA FOIP to emails and attachments. The details are set out in the Appendix. This exemption is a discretionary exemption that permits refusal of access in situations where release of a record could be injurious to the enforcement of a provincial or federal Act or regulation, or a resolution or bylaw.

[130] Subsection 14(1)(b) of LA FOIP provides:

14(1) A head may refuse to give access to a record, the release of which could:

...

(b) be injurious to the enforcement of:

(i) an Act or a regulation;

(ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or

(iii) a resolution or bylaw;

[131] As set out in the *Guide to LA FOIP*, Ch. 4 at pages 50 to 51, my office uses the following two-part test to determine if this exemption was properly applied:

1. Which Act, regulation, resolution or bylaw is being enforced?
2. Could release of the record injure enforcement of the Act, regulation, resolution, or bylaw?

[132] With respect to the second part of the test, I note that the exemption uses the word “could.” As set out in my office’s *Guide to LA FOIP*, Ch. 4 at page 51, the threshold for “could” is somewhat lower than a reasonable expectation. The requirement for “could” is simply that the release of the information could have the specified result. There would still have to be a basis for asserting the harm could occur. If it is fanciful or exceedingly remote, the exemption should not be invoked. For this provision to apply there must be objective grounds for believing that disclosing the information could result in the harm alleged.

[133] In addition, there must be a clear and direct connection between the disclosure of specific information and the injury to future investigations (see my office’s [Review Report 059-2017](#) and [Review Report 109-2022](#)).

[134] The *Guide to LA FOIP*, Ch. 4 at page 51, states that “injury” implies damage or detriment. In a review by my office, the local authority should describe the harm in detail to support the application of the provision. Local authorities should not assume that the harm is self-evident on the face of the records.

[135] The RM stated that the withheld information includes correspondence between the RM’s Administrator and the third party Investigator, information about investigative procedures and drafts of the investigation report. According to the *Code of Ethics Bylaw*, where a violation is found, Council for the RM must determine the appropriate sanctions, if any. For these reasons, the RM claimed that it was enforcing a bylaw and part one of the test had been met.

[136] Regarding part two of the test, the RM stated that the release of the withheld information would negatively impact its ability to hire third party investigators in the future. In support of this position, it explained that there is an expectation that correspondence between the RM’s Administrator and the Investigator will be kept confidential. It added that if the

Investigator's file was released, individuals subject to a code of ethics investigation would not speak openly and freely to the investigator. The Investigator's ability to conduct future investigations would be undermined. It added that this expectation is supported by the requirement in section 12.2 a) for the investigation to, as is reasonably possible, to protect the names of all parties involved. Section 12.2 b) of the *Code of Ethics Bylaw* states that the investigation shall be done in a confidential, objective and unbiased way. It added that the RM has no knowledge of the contents of the Investigator's file.

[137] I note that similar requirements exist in section 12.1 d) and e) for investigations conducted under the *Code of Ethics Bylaw*, a committee of the RM's Council. Therefore, the same standards of confidentiality apply whether the investigation is conducted internally or by an external investigator.

[138] The RM asserted that release of these records "would impact" the RM's "ability to conduct further legal proceedings" involving the Applicant that may arise from the *Code of Ethics Bylaw* investigation. It explained this was the Applicant's second *Code of Ethics Bylaw* complaint and that after the first complaint was investigated, the Applicant commenced a legal action.

[139] The RM asserted that interference with an investigation can occur on concluded, active, ongoing or future investigations and cited [*Leo v Global Transportation Hub Authority*](#), 2019 SKQB 150 (Leo). I note in reviewing *Leo* that it considered subsections 15(1)(c) and (k) of *The Freedom of Information and Protection of Privacy Act* (FOIP). It did not consider the application of subsections 15(1)(b) and (d) of FOIP, which are the equivalents to subsections 14(1)(b) and (d) of LA FOIP. I also note that subsection 14(1)(b) and (d) of LA FOIP do not use the term "interfere."

[140] Finally, it added that there is a strong public interest in protecting documents related to law enforcement. It appears to have taken this from my office's *Guide to LA FOIP*, Ch. 4 at page 44, where it states:

Section 14 of LA FOIP recognizes that there is a strong public interest in protecting documents related to law enforcement: see [Ontario \(Public Safety and Security\) v Criminal Lawyers' Association](#), 2010 SCC 23 at para 44, [2010] 1 SCR 815.

[141] I now turn to consider if part one of the test has been met. In my office's [Review Report 098-2022](#), I found that municipal code of ethics investigation reports which included descriptions of the complaints, recorded responses from respondent, the purpose of the investigations and the procedure followed, outcomes and recommendation met part one of the test.

[142] I will follow the same approach here. The majority of the records are email communications between the RM and the Investigator which relate to the 2023 *Code of Ethics Bylaw* complaint. Page 57 (top) is an email between the RM and its legal counsel. Pages 119 (bottom), and 121 (bottom) to end of page 122, includes an email between counsel for the Applicant and the Investigator. Pages 131 to 142, 144 to 155 and 197 to 209 are draft investigation reports.

[143] Pages 162 to 175 are described as containing the "final" investigation report. However, this version of the report is different from the version that was posted on the RM's website in a number of respects. Therefore, although it is described as the "final" report I will be treating it as a draft.

[144] All these records relate to the 2023 *Code of Ethics Bylaw* complaint, and therefore, part one of the test has been met for the withheld information.

[145] I must now determine if release of the records could injure enforcement of the bylaw and will consider each of the RM's arguments in relation to the withheld information.

Email headers, footers, subject lines and confidentiality statements

[146] Disclosing the email headers, footers, subject lines and confidentiality statements would not have a cooling effect on the RM's ability to retain investigators. Release of this information would not reveal anything about the Investigator's communications other than

the fact that the parties communicated and when. Nor do the subject lines of the emails reveal any particulars of the communication.

[147] For these reasons, the RM has not established that the release of the headers, footers, subject lines and confidentiality statements in the email records could injure enforcement of the Bylaw. Therefore, I find that part two of the test has not been met for this information. I find that the RM did not properly apply subsection 14(1)(b) of LA FOIP to this information. I will consider later in this Report if the information is exempt pursuant to subsection 14(1)(d) of LA FOIP.

Body of emails between the Investigator and the RM

[148] The following emails between the Investigator and the RM cover a range of subjects such as the decision to retain the third party, administration and logistics relating to the investigation and the terms of the agreement to retain the Investigator: pages 1, 2, 35 to 38, 39 to 40, 41 to 42, 43, 57 (bottom) to 58, 109 to 112, 113 to 118, 127 to 128, 129, 130, 175, 176 and 192. The following emails are emails with little to no substantive content in that they were used to forward attachments or other emails: pages 143 bottom and 157 bottom.

[149] Regarding the requirement for confidentiality in sections 12.2 d) and 12.2 e) of the RM's *Code of Ethics Bylaw*, I note that the provisions contemplate that there may be circumstances where it is not reasonably possible to maintain confidentiality of the parties' names. An access to information request is one example of where it may not be reasonably possible to maintain confidentiality because the access rules in LA FOIP would prevail over the confidentiality provisions in the Bylaw pursuant to subsection 22(1) of LA FOIP discussed earlier in this Report. The only exceptions are the laws listed in subsection 22(3) of LA FOIP and they do not apply to this case.

[150] The confidentiality requirement in the Bylaw is also subject to section 12.2 c) iii) of the Bylaw which requires that the parties be given "an opportunity to review preliminary findings." Finally, I note that there is nothing in the email communications between the

RM and the Investigator that suggests that the Investigator had an expectation or was promised confidentiality by the RM vis-à-vis these emails.

[151] In support of its claim that there is an expectation of confidentiality by the Investigator, the RM stated that it has no knowledge of the contents of the Investigator's file. It also asserted that release of the Investigator's file would deter individuals from speaking openly and freely to the Investigator. However, the records that are at issue here are the records that are in the possession of the RM, not those from the Investigator's file that are in the possession of the Investigator.

[152] My approach to the confidentiality provision in the Bylaw is consistent with my findings in [Review Report 059-2017](#), which dealt with a request for access to information related to an investigation conducted by the Public Complaints Commission (PCC). The PCC claimed that information was exempt pursuant to subsection 15(1)(b) of *FOIP* (equivalent to subsection 14(1)(b) of LA FOIP). I found that the confidentiality provisions found in subsection 39(5) of *The Police Act, 1990*, were not absolute and the PCC could only refuse access where the information fell within an exemption.

[153] For all of these reasons and given the nature of the communications, I am not persuaded that release of the body of these emails could injure the enforcement of the *Code of Ethics Bylaw* in the future. I find that part two of the test has not been met for this information.

Emails from the Applicant's legal counsel to the Investigator

[154] The emails at the top of page 119 and top of page 121 to 122, are from the Investigator to the RM's Administrator and they forward email(s) that the Investigator received from the Applicant's counsel. The analysis set out above applies here. For these reasons, I am not persuaded that release of this information could injure enforcement of the Bylaw.

Photograph

[155] Page 159 of the records is a photograph. The RM's submission does not directly address the photograph. I am not persuaded that release of the photograph would injure enforcement of the Bylaw in the future. Therefore, part one of the test has not been met.

Comments and discussions on draft reports

[156] The following emails include comments made by the RM on the Investigator's draft report: pages 143 top, 156, to 157, 158 to 160 and 161.

[157] The analysis set out above applies equally to this information. I also note that in the final report the Investigator makes reference to information provided by the Applicant and information provided by the RM. It also appears that the final report was provided to the parties and made publicly available on the RM's website.

[158] Given all of the circumstances, I am not persuaded that release of this information could be injurious to the enforcement of the Bylaw by the RM.

Draft and "final" investigation reports

[159] Pages 131 to 142, 144 to 155 and 197 to 209 are copies of the Investigator's draft reports. Pages 162 to 174 is the "final" report referred to above.

[160] I note that the *Code of Ethics Bylaw*, which sets out a complaint process, contemplates that the Investigator will provide the complainant and the person against whom a complaint is made with its "preliminary findings." It states:

12.2 Investigation – Option 2 – Third Party is the Investigator

...

c) At a minimum, the investigation must:

i) clarify what the complaint is about

ii) verify the information provided in the complaint is relevant and accurate;

iii) provide an opportunity for all parties involved to review the preliminary findings and to provide contrary and/or additional information that may be relevant;

[161] If the process entails the Investigator providing all parties with its preliminary findings, which could be included in its draft reports, I fail to see how release of the draft reports could injure enforcement of the Bylaw. Accordingly, part two of the test has not been met for the draft and “final” investigation reports.

[162] In conclusion, the RM has not established that the release of these records could be injurious to the enforcement of the Bylaw. As I stated in my office’s [Review Report 059-2017](#) and Review Report 098-2022, the promise of confidentiality in an investigation is not absolute. The burden is on the RM to demonstrate that release of the withheld information would be injurious to enforcement of the bylaw pursuant to section 51 of LA FOIP. I find that the RM has failed to meet that burden in this case. I must next consider if this information is exempt pursuant to section 14(1)(d) of LA FOIP.

7. Did the RM properly apply subsection 14(1)(d) of LA FOIP?

[163] The RM applied subsection 14(1)(d) of LA FOIP to a number of pages as set out in the Appendix.

[164] Subsection 14(1)(d) of LA FOIP is a discretionary exemption. It permits refusal of access in situations where release of a record could be injurious to the local authority in the conduct of existing or anticipated legal proceedings. It states:

14(1) A head may refuse to give access to a record, the release of which could:

...

(d) be injurious to the local authority in the conduct of existing or anticipated legal proceedings;

[165] As set out in the *Guide to LA FOIP*, Ch. 4 at pages 56 to 57, my office uses the following two-part test to determine if this exemption was properly applied:

1. Do the proceedings qualify as existing or anticipated legal proceedings?
2. Could disclosure of the records be injurious to the local authority in the conduct of the legal proceedings?

[166] The *Guide to LA FOIP*, Ch. 4 at page 56, includes definitions for the following terms. “Legal proceedings” are any civil or criminal proceeding or inquiry in which evidence is or may be given and includes arbitration. To qualify for this exemption, the legal proceedings must be “existing or anticipated.” “Anticipated” means more than merely possible.

[167] Regarding the second part of the test, injury implies damage or detriment. The mere fact that an applicant would be receiving the records before they receive them through the arbitration or litigation process is not injurious because the issue of admissibility can be ruled on at any existing or anticipated proceeding.

[168] This is because the right of access to information under LA FOIP is independent of any discovery or disclosure provisions in a legal proceeding. The Applicant’s right to access to information under LA FOIP is not muted because there is an upcoming or anticipated legal proceeding.

[169] The local authority should describe the harm in detail to support the application of the provision. Local authorities should not assume that the harm is self-evident on the face of the records.

[170] In this case, the RM claimed that the proceedings are anticipated. It stated that it anticipates that the dispute underlying part 2 of the request will be the subject of litigation because the Applicant has indicated that they are going to appeal Council’s related decision.

[171] I am satisfied given the history of the relationship between the Applicant and the RM that it is reasonable for the RM to anticipate further legal proceedings. Therefore, part one of the test has been met.

[172] Regarding the second part of the test, the RM stated:

172. In *Britto v University of Saskatchewan*, 2018 SKQB 92, the Court commented on the fact that a third-party investigator has a duty of confidentiality. Although the Court's comments were made with respect to litigation privilege applying to an investigation, the court highlighted the risks in disclosure of records from a third-party investigation. At paragraph 68 the Court states that there is potential use and abuse of the disclosed record before any admissibility ruling is made under the adjudicative process and a broader problem of undercutting the free communication that is essential to an investigation.

173. Disclosing these records to [the Applicant] now, in light of his threats to bring further legal action against [the RM] would be injurious to [the RM] in such further legal proceedings.

[173] The RM did not provide any further information about the harm that might result. I note that these emails do not contain any information touching on the substantive aspects of the issues under investigation. Some emails involve scheduling appointments, acknowledging receipt of documents or forwarding documents. These emails exist at pages 2, 35 to 38, 39 to 43, 57, 58, 109 to 112, 113 to 118, 119, 121, 122, 127 to 130, 143, 158 to 160, 161, 176 and 192. The email on page 175 provides a process update and information about the next steps.

[174] Other emails involve an exchange of comments on a draft report. They are at pages 156 and 157. Like the other emails, I fail to see how release of these emails would be injurious to the RM in any future legal proceeding.

[175] Regarding the relationship between the discovery and disclosure provisions in a legal proceeding and rights of access under LA FOIP, my office's *Guide to LA FOIP*, Ch. 4 at page 58, states:

Discovery and disclosure provisions of *The Queen's Bench Rules* of Saskatchewan operate independent of any process under LA FOIP. Subsection 4(c) of LA FOIP establishes that LA FOIP does not limit access to information otherwise available by law to parties to litigation. Section 4 also establishes that LA FOIP complements and does not replace existing procedures for access to records. Therefore, the injury should be above and beyond any prejudice that relates to the production of a relevant, non-privileged document in the usual course of a lawsuit. Where there are concerns or objections to the admissibility of any records in legal proceedings, such concerns could

be argued before that tribunal. If a record is prejudicial to a local authority's position, it would have the usual opportunity to make a submission to the tribunal who will then make a determination as it determines appropriate.

In *Britto v University of Saskatchewan*, (2018), Justice Danyliuk confirmed the above position at paragraph [61] but determined that it did not go far enough. Danyliuk J. added at paragraph [66] that the Act does not trump every potential privilege claim simply because the documents disclosed may later be argued to be inadmissible. The problem is twofold: not only is there potential use and abuse of the disclosed record before any admissibility ruling is made under the adjudicative process, but there is also the broader problem of the undercutting of the free communications essential to seeking and obtaining legal advice.

[176] As noted by the RM, the information at issue in *Britto* was the subject of a litigation privilege claim. In [Review Report 223-2015 and 224-2015](#) and [Review Report 146-2017](#) my office upheld a decision to apply subsection 14(1)(d) of LA FOIP (and its provincial equivalent subsection 15(1)(d) of FOIP) where release of the records could result in the potential swaying of jury members prior to the trial date being set. Recently, in [Review Report 221-2021](#) my office upheld the application of subsection 14(1)(d) of LA FOIP to records for which a claim to privilege was made.

[177] However, the RM did not argue that the information to which it applied subsection 14(1)(d) of LA FOIP was privileged, including records that related to the work of the Investigator. Furthermore, the RM's submission on this issue did not explain how the release could result in injury.

[178] The onus is on the RM to establish that the release could result in injury to the RM in the conduct of legal proceedings. The RM has not met the burden for these records.

Draft and "Final" Investigation Reports

[179] The RM has also claimed that release of draft investigation reports found at pages 131 to 142, 144 to 155, 177 to 189 and 197 to 209, and the "final" report at pages 162 to 174, would be injurious to future legal proceedings. These reports relate to the Applicant's *Code of Ethics Bylaw* complaint. For the same reasons as set out above, I am not persuaded that release of these records could be injurious to any anticipated legal proceedings.

[180] Therefore, I find that the RM did not properly apply subsection 14(1)(d) of LA FOIP in this case. I recommend that, within 30 days of issuance of this Report, that the RM release information as set out in the Appendix.

[181] My recommendations regarding release of records made throughout this Report do not apply to any personal information of third parties that may be exempt pursuant to subsection 28(1) of LA FOIP. I now turn to consider if any information in the records is subject to this mandatory exemption.

8. Did the SHA properly apply subsection 28(1) of LA FOIP?

[182] Subsection 28(1) of LA FOIP prohibits the disclosure of personal information unless the individual about whom the information pertains consents to its disclosure or if disclosure without consent is authorized by subsection 28(2) or section 29 of LA FOIP.

[183] Subsection 28(1) of LA FOIP provides:

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.

[184] For subsection 28(1) of LA FOIP to apply, I must first find that the withheld information is “personal information.” Subsection 23(1) of LA FOIP defines “personal information” and provides some examples of the types of information that can be considered personal information. Subsections 23(1)(a) and (k) of LA FOIP are relevant here. They state:

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;

...

(k) the name of the individual where:

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

[185] The list of examples of personal information in subsection 23(1) of LA FOIP is not exhaustive. To qualify as “personal information,” the information must be 1) about an identifiable individual, and 2) personal in nature.

[186] Based on a review of the records, I find that the following information qualifies as personal information pursuant to subsections 23(1)(a) and (k)(i) of LA FOIP:

- Emails on pages 2, 35, 36, 37, 39, 109 and 115 include a reference to the third party’s family members, and vacation dates, activities and locations.
- The second email on page 113 includes information about the third party’s personal residence and another personal matter.

[187] As there is no indication that the third party involved has consented to the release of this information and that the exceptions in subsections 28(2) or section 29 of LA FOIP would apply, I find that subsection 28(1) of LA FOIP applies. I recommend that the RM withhold the information pursuant to subsection 28(1) of LA FOIP. The details are set out in the Appendix to this Report.

IV FINDINGS

[188] I find that I have jurisdiction to conduct this review.

[189] I find that the RM did not conduct a reasonable search for responsive records.

[190] I find that the RM did not comply with section 10 of LA FOIP.

[191] I find that it would be absurd to withhold pages 241 and 242.

[192] I find that the RM properly applied subsection 21(a) of LA FOIP to some records but not all.

[193] I find that the RM did not properly apply subsection 21(b) of LA FOIP.

[194] I find that the RM did not properly apply subsections 14(1)(b) and (d) of LA FOIP.

[195] I find that subsection 28(1) of LA FOIP applies to information in emails at pages 2, 35, 36, 37, 39, 109, 113 and 115.

V RECOMMENDATIONS

[196] I recommend that, in the future, the RM should ensure that its contracts with third parties include provisions defining roles and responsibilities relating to access, privacy, confidentiality and security of personal information.

[197] I recommend that the RM, within 30 days of the issuance of this Report, conduct a search for responsive records in the record holdings of members of Council and the Investigator and provide the Applicant with a section 7 decision regarding the results of the searches.

[198] I recommend that the RM, within 30 days of the issuance of this Report, release and withhold information as set out in the Appendix to this Report.

Dated at Regina, in the Province of Saskatchewan, this 30th day of May, 2024.

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

Appendix

Page No.	Severance No.	LA FOIP Exemption Applied	Description	Withheld/Released	Commissioner's Recommendations
1	1	14(1)(b) and (d)	Email	Withheld in full	Release
2	2	14(1)(b) and (d)	Emails	Withheld in full	Release except for personal information of third party
3 - 8	a	Previously provided in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council – January 2023	Withheld in full	Release
9 - 14	b	Previously provided to Applicant in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council – March 2023	Withheld in full	Release
15 - 19	c	Previously provided to Applicant in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council – April 2023	Withheld in full	Release
20 - 26	d	Previously provided to Applicant in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council – May 2023	Withheld in full	Release
27 - 34	e	Previously provided in ethics complaint process	Attachment: Complaint Form pursuant to the <i>Code of Ethics Bylaw</i> and Receipt of Complaint	Withheld in full	Release
35 - 38	3	14(1)(b) and (d)	Email exchange	Withheld in full	Release except for personal information of

					third party on pages 35, 36 and 37
39 - 40	4	14(1)(b) and (d)	Email exchange	Withheld in full	Release except for personal information on page 39
41 - 42	5	14(1)(b) and (d)	Email	Withheld in full	Release
43	6	14(1)(b) and (d)	Email	Withheld in full	Release
44	a	Previously provided in capacity as member of Council	Attachment: May 2023 Administration Report	Withheld in full	Release
45 - 49	b	Previously provided in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council on April 12, 2023	Withheld in full	Release
50	c	Previously provided in capacity as member of Council	Attachment: Minutes of the Bylaw Committee Meeting on April 4, 2023	Withheld in full	Release
51 - 56	d	Previously provided in capacity as member of Council	Attachment: Minutes of the Regular Meeting of Council on March 8, 2023	Withheld in full	Release
57 - 58	7	14(1)(b) and (d)	Email	Withheld in full	Release
59 - 108	a	Applicant has a copy as party to proceeding	Attachment: Court Decision	Withheld in full	Release
109 - 112	8	14(1)(b) and (d)	Email exchange	Withheld in full	Release except for personal

					information on page 109
113 - 118	9	14(1)(b) and (d)	Email exchange	Withheld in full	Release except for personal information on pages 113 and 115
119	10	14(1)(b) and (d)	Email	Withheld in full	Release
120	a	Applicant has a copy as party to proceeding	Attachment: Decision of the Development Appeals Board dated August 15, 2022	Withheld in full	Release
121 - 122	11	14(1)(b) and (d)	Email	Withheld in full	Release
123 - 126	a	Applicant has a copy as party to proceeding	Attachment: Notice of Appeal of the Decision of the Development Officer dated May 16, 2022	Withheld in full	Release
127 - 128	12	14(1)(b) and (d)	Email	Withheld in full	Release
129	13	14(1)(b) and (d)	Email exchange	Withheld in full	Release
130	14	14(1)(b) and (d)	Email	Withheld in full	Release
131 - 142	a	14(1)(b) and (d)	Attachment: Draft Investigation Report	Withheld in full	Release
143	15	14(1)(b) and (d)	Email	Withheld in full	Release
144 - 155	a	14(1)(b) and (d)	Attachment: Draft Investigation Report	Withheld in full	Release

156 - 157	16	14(1)(b) and (d)	Email exchange	Withheld in full	Release
158 - 160	17	14(1)(b) and (d)	Email exchange with attached photograph	Withheld in full	Release
161	18	14(1)(b) and (d)	Email	Withheld in full	Release
162 - 174	a	14(1)(b) and (d)	Attachment: Investigation Report	Withheld in full	Release
175	19	14(1)(b) and (d)	Email	Withheld in full	Release
176	20	14(1)(b) and (d)	Email	Withheld in full	Release
177 - 189	a	Attachment provided at the Regular Meeting of Council in October 2023.	Attachment: Investigation Report dated August 29, 2023	Withheld in full	Release
190 - 191	b	Not applicable	Attachment	Released in full to the Applicant on April 11, 2024	Not applicable
192	21	14(1)(b) and (d)	Email exchange	Withheld in full	Release
193 - 194	22	21(a) and (b)	Email exchange	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
195 - 196	23	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
197 - 209	a	14(1)(b) and (d)	Attachment: Draft	Withheld in full	Release

			Investigation Report		
210 - 214	b	Applicant is the author	Applicant's Position Paper	Withheld in full	Release
215	24	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
216 - 217	25	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
218 - 230	a	Provided to Applicant in capacity as member of Council	Attachment	Withheld in full	Release
231 - 232	b	Not applicable	Attachment (duplicate of pages 190-191)	Pages 190-191 were released in full to the Applicant on April 11, 2024	Not applicable
233 - 236	26	21(a) and (b)	Email exchange	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
237 - 239	27	21(a)	Invoice	Withheld in full	Release letterhead, client name and address, and total amount; withhold remaining
240	28	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements,

					withhold remaining information
241 - 242	a	21(a) and (b)	Attachment	Withheld in full	Release
243 - 244	29	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
245 - 247	30	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
248	31	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
249	a	21(a) and (b)	Attachment	Withheld in full	Withhold
250 - 251	32	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
252 - 253	a	21(a) and (b)	Attachment	Withheld in full	Withhold
254 - 255	33	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
256 - 257	a	21(a) and (b)	Attachment	Withheld in full	Withhold
258	34	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality

					statements, withhold remaining information
259 - 266	a	Provided previously to Applicant in capacity as member of Council	Attachment	Withheld in full	Release
267 - 269	b	Applicant is the author	Attachment	Withheld in full	Release
270 - 271	c	Applicant is the author	Attachment	Withheld in full	Release
272 - 273	d	Applicant is the author	Attachment	Withheld in full	Release
274 - 275	e	Applicant is the author	Attachment	Withheld in full	Release
276	f	Previously provided to Applicant in capacity as member of Council	Attachment	Withheld in full	Release
277	g	Previously provided to Applicant in capacity as member of Council	Attachment	Withheld in full	Release
278 - 279	35	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
280	36	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality

					statements, withhold remaining information
281 - 282	37	21(a) and (b)	Email	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
283	a	Applicant is the author	Attachment	Withheld in full	Release
284 - 288	38	21(a) and (b)	Email exchange	Withheld in full	Release headers, footers and confidentiality statements, withhold remaining information
289 - 290	39	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount; withhold remaining
291 - 292	40	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount owing; withhold remaining
293 - 294	41	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount owing; withhold remaining
295 - 296	42	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount owing; withhold remaining
297 - 298	43	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount owing; withhold remaining

299 - 300	44	21(a)	Invoice	Withheld in full	Release letterhead, client name and address and total amount owing; withhold remaining
301	45	21(a) and (b)	Notes of telephone call	Withheld in full	Withhold
302	46	21(a) and (b)	Notes of meeting	Partially redacted version released to the Applicant on April 11, 2024	Withhold