



INVESTIGATION REPORT 043-2017

City of Martensville

June 2, 2017

Summary: The Complainant alleged that the City of Martensville (the City) inappropriately disclosed his personal information when it released his application for a building permit. The Commissioner found that the information in the application did not qualify as personal information because it was about a structure that already existed; therefore, no personal information had been disclosed. He recommended that the City take no further action.

I BACKGROUND

- [1] The Complainant raised concerns with the City of Martensville (the City) after it released a building permit application for a deck on a property the Complainant had previously owned. The City released the information through an access to information request. The Complainant is concerned that the City released his personal information through this process.
- [2] The City explained to the Complainant that they had severed his name and contact information from the documents before releasing the responsive records. However, the Complainant was dissatisfied with the City's response as it has released the rest of the application, which also bore a professional engineering seal.

[3] On March 9, 2017, the Complainant made a privacy complaint to my office. On March 13, 2017, my office provided notification to both the City and the Complainant of my intention to undertake an investigation.

II DISCUSSION OF THE ISSUES

[4] The City qualifies as a local authority pursuant to subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

1. Did the City disclose the Complainant's personal information?

[5] The Complainant alleges that the City breached his privacy when it disclosed his application for a building permit, which also bore a professional engineering seal, to an applicant who specifically requested this information. The permit application included an Application Form, Permit Application Checklist, Surveyor Certificate with handwritten drawing of deck and a detailed drawing of the deck with a professional seal. The City only severed the Complainant's name and his contact information from the record.

[6] Before I can determine if the City made an unauthorized disclosure of personal information, I must first determine if the information in question qualifies as personal information for the purposes of LA FOIP.

[7] Subsection 23(1) of LA FOIP provides a definition of personal information. Some of the relevant subsections include:

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

...

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

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

...

(k) the name of the individual where:

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

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

[8] Subsection 23(2) of LA FOIP provides a detailed list of what is not personal information. Relevant portions provide:

23(2) **“Personal information”** does not include information that discloses:

...

(d) details of a licence, permit or other similar discretionary benefit granted to an individual by a local authority;

[9] Subsection 23(1) of LA FOIP provides a definition of personal information. However the items listed in the definition is non-exhaustive. Two considerations when determining if the information in question would qualify as personal information are:

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

2. Is the information personal in nature? Personal in nature means that the information reveals something personal about the individual. Information that relates to an individual in a professional, official or business capacity could only qualify if the information revealed something personal about the individual for example, information that fits the definition of employment history.

[10] The Complainant submits that the professional seal qualifies as personal information as it is an identifying symbol and number pursuant to subsection 23(1)(d) of LA FOIP. He also submits that the entire application qualifies as his personal information.

[11] I will first address the professional seal. This seal is governed by the bylaws of The Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS). It is a round seal that indicates that the professional is a Professional Engineer in Saskatchewan. It also bears the professional’s name and association member number as

well as the date that the document was stamped. APEGS' publication entitled *Authentication of Documents: Use of Profession Seals* states:

The seal constitutes the distinctive mark of the professional. It identifies work performed by, or under the direct supervision of a licensed professional. It assures the document's recipient that the work meets the standards expected of experienced professionals who take personal responsibility for their judgments and decisions. The seal is important because it is a visible commitment to the standards of the profession and signifies to the public that a particular professional has accepted responsibility for the document.

[12] By nature, the seal is meant to be a tool to signify to the public that a particular professional has accepted responsibility for the document to which it is affixed. As such, I do not find that it is personal in nature and does not qualify as personal information.

[13] The Complainant also alleges that the entire application qualifies as his personal information. He also noted that he withdrew the application shortly after it was submitted, and therefore, it should not have been released.

[14] First, I must determine if there is an identifiable individual. The City severed the Complainant's name from the Application. However, as noted, if the information enables an accurate inference to be made as to a person's identity when combined with other available sources of information or due to the context of the information in the record then there would be an identifiable individual. The Complainant owned the house at the time that the application was made. Therefore inferences could be made as to the Complainant's identity. In this case, there is an identifiable individual.

[15] Next, I must determine if the information is personal in nature. The Complainant stated he withdrew the application thus, it was not approved. Therefore, he felt it should not have been released.

[16] The City noted that its Records Management Bylaw 3-2013, section 6.1.1, provides that building permits and supporting documentation will be kept for the life of the structure plus 10 years. Pursuant to subsection 23(2)(d) of LA FOIP, as noted above, this

information does not qualify as personal information. Otherwise, the bylaw provides that building permits will be disposed of if rejected.

- [17] The City also provided us with a timeline of events. The City alleges that the deck, which is the subject of the permit application, was built before the application was made. The Complainant confirmed it was built in 2014. The application was made in the summer of 2015. Once it received the Application for the permit, the City sent the application to a building official to review the design. The building official deemed the information in the deck application to be incomplete and informed the Complainant by e-mail.
- [18] The City also indicated that the Complainant left a message with the City planner less than three weeks later, indicating that he was no longer the owner of the property in question and that the City should follow up with the new owners.
- [19] The City noted that because the deck had been built without a permit, the Complainant could not withdraw the request. The City still was required to address the situation. More information was required about the deck or it would need to be demolished.
- [20] Ontario Information and Privacy Commissioner Order MO-2181 stated:

In my view, drawings, plans and notations about proposed alterations or additions to a property in the context of a building permit application are not personal information...

As well, the fact that the names of individual owners could be determined by search in the registry office or elsewhere does not convert the permit application information in this case from information about a property to personal information. In Order PO-1847, Adjudicator Katherine Laird noted that, in the context of a discussion about correspondence concerning possible land use, "... where records are **about a property**, and not **about an identifiable individual**, the records may be disclosed, with appropriate severances, notwithstanding the possibility that the owners of the property may be identifiable through searches in land registration records and/or municipal assessment rolls."

- [21] In this case, the information in question is about a deck that exists on a piece of property that is no longer under the Complainant's ownership. I find that the information is not personal in nature. This information does not qualify as personal information.

[22] As the information in question does not qualify as personal information, there is no need for me to consider whether it was improperly disclosed.

III FINDINGS

[23] I find that the information in question does not qualify as personal information.

[24] I find there was no disclosure of personal information.

IV RECOMMENDATION

[25] I recommend the City take no further action.

Dated at Regina, in the Province of Saskatchewan, this 2nd day of June, 2017.

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