



INVESTIGATION REPORT 070-2018

Village of Lucky Lake

June 10, 2019

Summary: The Complainant raised concerns that the Village of Lucky Lake (the Village) had inappropriately collected their personal information through an advertisement seeking a tenant for their rental property and information from a third party individual about when a tenant had vacated their rental property. The Commissioner found that the information at issue did not qualify as personal information and therefore a privacy breach had not occurred.

I BACKGROUND

- [1] On February 4, 2018, the Complainant contacted the Village of Lucky Lake (the Village) to request the balance owing for utilities for the Complainant's property as a new tenant was renting the property.
- [2] On February 5, 2018, the Village's Office Assistant responded to the Complainant advising the total balance owing for the utilities.
- [3] On February 8, 2018, the Chief Administrative Officer (CAO) sent a follow up email to the Complainant stating:

[The Village's Office Assistant] told me you have a new renter and he was in earlier this week. Do I assume [the tenant] moved in and is paying rent as of February 1?

To my knowledge your previous owner moved out at the end of December, is this correct??... If [the tenant] moved out for December 31 and your new renter moved in

for February 1, there will be about 1/3 of the next utility billing that will be your responsibility...

- [4] On February 8, 2018, the Complainant responded requesting to know how the Village had knowledge of when the last renter had moved out. On February 8, 2018, the Village's CAO responded to the Complainant stating:

Someone was in the office and mentioned that they saw them loading their belongings in a vehicle, and it was more than a duffle bag or suitcase. This is why I was asking you, since I haven't been able to reach the person. As well, you had an ad in the Facebook Lucky Lake and Area Flea Market early in January looking for a new renter, and I assume it was because they moved out.

If they are responsible for paying rent to the end of January I can bill the water that way...

- [5] On February 8, 2018, the Complainant responded to the Village's CAO requesting:

...going forward it may be a better idea to ask me directly if you need to know something or have questions so there are no more mix ups please, Gossip can be very harmful when it's incorrect, which is usually the case, more often then [sic] not. Your source is incorrect the tenant handed [their] keys in on January 15. It [sic] best practice we not share personal information with other people as that may be considered a breach of confidentiality...

- [6] The Village's CAO again responded to the Complainant on February 8, 2018, indicating "I didn't share this information with anyone, I was e-mailing you directly to ask. There was no mix up, I heard something and instead of assuming I asked you." The Complainant responded to the Village's CAO stating: "please do not further discuss any details about my property with anyone that comes into the town office or otherwise unless I have authorized consent to do so."

- [7] On March 15, 2018 and March 20, 2018, the Complainant emailed my office providing the email threads between themselves and the Village regarding the Complainants concerns about the handling of information related to their property.

- [8] On March 23, 2018, my office informed the Complainant that in order for our office to undertake an investigation, they must first make a formal privacy breach complaint to the

Village and provide approximately 30 days for the Village to respond to the complaint. If the Complainant was still dissatisfied after receiving the response, my office could review the information and determine if we could go forward with an investigation into the matter.

[9] On March 28, 2018, the Complainant emailed the Village their formal privacy breach complaint outlining their concerns, including concerns about the collection of their personal information through social media and information from a third party individual.

[10] On April 13, 2018, the Village responded to the Complainant's privacy breach complaint stating:

...I spoke to you, and only you. I e-mailed you directly on February 4th after your e-mail to me indicating you had a new renter. I didn't ask anyone else to confirm information, I asked you directly.

As I explained in my second e-mail of February 8th that is attached, I did not seek out any information prior to that about your renter or yourself, it either appeared on my newsfeed on facebook or was told to me in person, unsolicited (I didn't ask for the information):

- Your PUBLIC ad on the Lucky Lake and Area Flea Market was not me asking for information, you provided that to the public.
- I did not ask anyone about you or your renter, a ratepayer or neighbor in the village mentioned that they saw your renter moving out.

As the Village administrator, people tell me things all the time for their own reasons. I hear and see things every day in the course of my work that may or may not be relevant to the operation of the municipality. The important part is that I follow both a professional and personal code of ethics and do not repeat that information to others, or use it for personal or professional gain.

I do have a right to ask you or your renter questions in order to confirm dates for utility billing, which is what I did when I e-mailed you directly to ask. I didn't email or ask anyone besides yourself before or since that time to confirm information. I didn't try contacting you in January when I saw your public ad on facebook, since we weren't doing utility billing until the end of March, and in the past you've let me know when the renter has changed – I was waiting for you to provide the information instead of seeking it out...

[11] On April 17, 2018, my office contacted the Complainant to determine if they were satisfied with the Village's response to their privacy breach complaint. The Complainant indicated that they were not satisfied and would like my office to proceed with the investigation.

[12] On April 18, 2018, my office notified the Village and the Complainant that I would be undertaking an investigation pursuant to section 32 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). My office requested the Village provide a copy of its internal investigation report, including details regarding the incident and copies of relevant policies or procedures.

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[13] The Village qualifies as a local authority pursuant to subsection 2(f)(i) of LA FOIP. As such, I have jurisdiction to undertake this investigation.

2. Is the Complainant's personal information involved?

[14] In order for the privacy provisions under LA FOIP to be engaged, the data elements at issue must constitute personal information. The data elements at issue are contained in the email thread between the Complainant and the Village and include:

- The Complainant's name;
- The Complainant had posted an advertisement seeking a tenant for their rental property on the Lucky Lake and Area Flea Market; and
- The Complainant's previous tenant had vacated the rental property.

[15] Subsection 23(1) of LA FOIP provides a list of examples of personal information, but is not meant to be an exhaustive list. There can be other types of information that would qualify as personal information that are not listed. The *IPC Guide to Exemptions* provides the following two-part test to consider when assessing if the information is personal information:

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 (data linking) or due to the context of the information in the record.

Use of the term “individual” in this provision makes it clear that the protection provided relates only to natural persons. Therefore, it does not include information about a sole proprietorship, partnership, unincorporated association or corporation.

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.

[16] In this case, the Complainant, in their role as a landlord for their rental property, posted an advertisement on the Lucky Lake and Area Flea Market seeking a tenant to rent the property and that a third party individual had mentioned to the Village CAO that a tenant appeared to be vacating the Complainant’s rental property.

[17] In the Lucky Lake and Area Flea Market advertisement, the Complainant was not posting information in a personal capacity, but in a business capacity for the purposes of finding a tenant to rent their property. In the Complainant’s advertisement, they are not being identified as an individual in a personal capacity, but as a landlord. As such, a person in their business capacity was being identified. Further, the post does not contain any information that would be considered personal in nature as the advertisement is related to the Complainant’s rental property.

[18] The third party individual that mentioned to the Village CAO that a tenant appeared to be vacating the rental property, also would not reveal any personal information about the Complainant. The information is again, related to the Complainant’s rental property.

[19] I find that the information does not contain the Complainant's personal information and as such, no privacy breach has occurred.

III FINDING

[20] I find that the information does not contain the Complainant's personal information and as such, no privacy breach has occurred.

IV RECOMMENDATION

[21] I recommend the Village take no further action.

Dated at Regina, in the Province of Saskatchewan, this 10th day of June, 2019.

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