



REVIEW REPORT 010-2020

City of Saskatoon

October 27, 2020

Summary: The Applicant submitted an access to information request to the City of Saskatoon (the City). The City provided the Applicant with access to a portion of a record, but withheld the remainder. The Applicant appealed to the Commissioner. The Commissioner found that the City had not demonstrated that subsection 17(1)(f) of LA FOIP applied to the record at issue. He recommended that the City release the record, in its entirety, to the Applicant.

I BACKGROUND

[1] On November 29, 2019, the City of Saskatoon (City) received the following access to information request:

The parking meter annual receivables generated from the parking meter which was located at 810 Central Ave. There are 2 meteres [sic] located in the area - I would like the meter receivables for both. One was in front of the Southerland [sic] Hotel the other is at the corner of 109th Street and Central. The meter in front of the Southerland has been removed last summer.

[2] The Applicant specified the time period for the records to be “Jan – Dec 2018 & 2019”.

[3] In a letter dated December 16, 2019, the City responded to the Applicant. The City provided the Applicant with access to some, but not all of the record. It withheld some of the information pursuant to subsection 17(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Its letter said:

Please find attached the responsive record to your request. Please note, pursuant to section 8 of *The Local Authority Freedom of Information and Protection of Privacy Act* (the Act), some of the information contained in the attached record has been deleted as it is financial information of the City of Saskatoon. If released publically, the information of any meter tower would release the monetary value contained in the towers and negatively impact the City's right of use. Access to this information is denied pursuant to section 17(1)(b) of the Act.

- [4] On January 17, 2020, my office received a request for review from the Applicant.
- [5] On January 20, 2020, my office notified both the City and the Applicant that it would be undertaking a review.
- [6] In a letter dated February 5, 2020, the City notified the Applicant that it was no longer relying on subsection 17(1)(b) of LA FOIP, but it was relying on subsection 17(1)(f) of LA FOIP instead.
- [7] The Applicant informed my office that they wanted my office to review the City's application of subsection 17(1)(f) of LA FOIP. Therefore, my office sent updated notification emails dated February 5, 2020, to both the City and the Applicant, indicating that my office would be reviewing the City's application of subsection 17(1)(f) of LA FOIP.

Public Parking in the City of Saskatoon

- [8] According to the City's submission, a reserved parking permit costs \$35/day for the first month and \$25/day for each subsequent month. Otherwise, public parking in the Downtown, Broadway, Riversdale Landing, Sutherland areas as well as streets adjacent to St. Paul's Hospital and the Saskatoon City Hospital costs \$2.00/hour.
- [9] The City of Saskatoon's website explains that a person can purchase parking through a "FlexParking" pay station or through the "WayToPark" app. Once a person pays for parking, they can park in any public parking space in the downtown, Broadway, Riversdale,

River Landing and Sutherland areas in Saskatoon as well as in areas adjacent to the St. Paul’s Hospital and the Saskatoon City Hospital.

II RECORD AT ISSUE

[10] The record at issue is a table with three columns and three rows. It was released to the Applicant as follows:

Pay Station ID	2018	Jan 1 to Nov 30, 2019
STAE1	[REDACTED]	[REDACTED]
STAN1	[REDACTED]	[REDACTED]

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[11] The City qualifies as a “local authority” as defined by subsection 2(f)(i) of LA FOIP. Therefore, I have jurisdiction to conduct this review.

2. Did the City properly apply subsection 17(1)(f) of LA FOIP?

[12] Subsection 17(1)(f) of LA FOIP provides:

17(1) Subject to subsection (3), a head may refuse to give access to a record that could reasonably be expected to disclose:

...

(f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the local authority;

[13] My office uses the following test when determining if subsection 17(1)(f) of LA FOIP applies to a record: Could disclosure reasonably be expected to prejudice the economic interests of the local authority? The local authority does not have to prove that harm is probable, but needs to show that there is a “reasonable expectation of harm” if any of the

information were to be released. Local authorities should not assume that harm is self-evident. While the expectation of harm need not be a certainty, evidence must:

- show how the disclosure of information would cause harm;
- indicate the extent of harm that would result; and
- provide facts to support the assertion.

[14] “Prejudice” in this context refers to detriment to economic interests. “Economic interest” refers to the broad interest of a local authority in managing production, distribution and consumption of goods and services. It also covers financial matters such as the management of assets and liabilities by a local authority and the local authority’s ability to project its own interest in financial transactions.

[15] In its submission, the City offered two arguments. The first argument was that the dollar values in the table did not accurately reflect the revenue generated from the parking stations. The City explained that the dollar figures in the table reflected the “micro levels of revenue generated by singular parking stations” and did not take into account that parking can be paid from any of the City’s parking stations or through the WayToPark application. It asserted that the disclosure could potentially undermine the City’s ability to set rates for public parking including the ability to set “reserved parking” fees. It also said the following:

- [The disclosure] of the information may also result in an inaccurate impression or understanding of revenue generated from parking, which could call into question the City’s decisions respecting parking fees.
- The prejudice to the City that could result from release of misleading information is harder to quantify, but could result in the City having to defend itself against challenges to its authority to set parking rates that are based on misleading and incomplete information.
- The City has reason to believe that the information is being requested for the purpose of challenging the rates that the City currently charges for reserved parking permits.

[16] My office’s *Guide to LA FOIP, Chapter 1* (updated July 28, 2020) at page 4 cites the Saskatchewan Court of Appeal decision *General Motors Acceptance Corp v.*

Saskatchewan Government Insurance, 1993 CanLII 9128 (SKCA). In that decision, the Court of Appeal provided that the purpose of *The Freedom of Information and Protection of Privacy Act* (FOIP) is to open an agency's records and action to public scrutiny:

The Act's broad provisions for disclosure, coupled with specific exemptions, prescribe the "balance" struck between an individual's right to privacy and the basic policy of opening agency records and action to public scrutiny.

[17] Similarly, the purpose of LA FOIP is to open a local authority's records and actions to public scrutiny. The City has not offered any argument to support its assertion that the release of the information could potentially undermine its ability to set rates for public parking. I recognize that the record may not give a full accounting of the receivables generated by the two parking meters identified by the Applicant. I also recognize that the release of the record may open the City's rates for public parking to public scrutiny. However, subjecting a local authority to public scrutiny is one of the purposes of LA FOIP. Such scrutiny is meant to ensure the City's accountability to its citizens. Further, even if the City describes this information as possibly "misleading and incomplete", this is not a reason to withhold the information. How the Applicant may interpret or manipulate the information is a result of the actions of the Applicant and not from the nature of the information itself. In Order F2014-35, the Alberta's Office of the Information and Privacy Commissioner (AB IPC) provided that the possible misinterpretation of information by an applicant is not a harm contemplated in section 25 of Alberta's *Freedom of Information and Protection of Privacy Act* (AB FOIP). Section 25 of AB FOIP is similar to subsection 17(1)(f) of LA FOIP. AB IPC said:

[para 80] Park Place's primary concern and objection to disclosure is that its audited financial returns may be open to misinterpretation and possible manipulation to its detriment if it does not provide clarification of the figures in the audited financial returns. It also pointed to some information that it considered to be open to manipulation or misinterpretation. **That a party may misinterpret or manipulate information is not a harm recognized by section 25. If a party assigns meaning to information that is not supported by the information, or presents information to the public inaccurately, then any resulting harm or interference is not derived from the nature of the information, but the actions of the party reading and interpreting the information.**

[para 81] Section 25 applies only to information the disclosure of which could result in one of the harms recognized by this provision, regardless of the intentions or perceptions of the applicant. **It is for this reason that I consider the intentions or perceptions of an applicant to be external factors.**

[Emphasis added]

[18] I take a similar approach to the interpretation of subsection 17(1)(f) of LA FOIP. As such, I do not accept the City's first argument as to why subsection 17(1)(f) of LA FOIP applies to the redacted information.

[19] The City's second argument was that the disclosure of the information could potentially identify which parking stations hold more coins, which could result in the stations becoming the targets of vandalism and theft. The City provided the following three points:

- [The disclosure] of the information could result in certain parking meters becoming the targets of vandalism and theft.
- The cost to replace a parking station is \$9,152.00. The City of Saskatoon spent \$12,491.75 from January 1, 2019 – October 19, 2019 in repairs to parking stations that were vandalized.
- Vandalism of parking stations is not uncommon. The City does not generally disclose revenue generated from individual parking stations, in part to safeguard against certain parking stations becoming the targets of vandalism and theft.

[20] The City's assertion that the vandalism of parking stations is "not uncommon" suggests that vandalism already exists independent of the release of the information in the record at issue. It is difficult to conceive that the harm alleged – that is, the identification of which parking stations hold more coins which could result in the stations becoming targets of theft – could be connected to the disclosure of the redacted information. After all, the Applicant is seeking information regarding only two parking stations, not all parking stations. If the information within the record at issue was released, the Applicant may be able to decipher which of the two parking stations may hold more coins. However, the connection between understanding which of the two parking stations may contain more coins and vandalism does not seem likely or conceivable.

[21] I find that the City has not demonstrated that subsection 17(1)(f) of LA FOIP applies to the record at issue.

IV FINDING

[22] I find that the City has not demonstrated that subsection 17(1)(f) of LA FOIP applies to the record at issue.

V RECOMMENDATION

[23] I recommend that the City release the record, in its entirety, to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 27th day of October, 2020.

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