

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 011/2014

Village of Killaly

Summary: The applicant asked for a correction of his personal information on a specific record. The Village of Killaly failed to demonstrate that the personal information was accurate. It did not respond appropriately to the applicant as required by section 31 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Commissioner recommended it provide an appropriate response to the applicant and make a correction to the record

I BACKGROUND

- [1] On December 2, 2013, the applicant submitted an access request to the Village of Killaly with seven separate requests within it. One of the requests, which is the request at issue in this report, was for a correction of personal information. The applicant requested a correction of a statement in a letter from the acting clerk of village council to the applicant. The Village did not make the correction or make a notation that a correction had been requested.
- [2] My office provided notification letters to both the Village and the applicant on February 21, 2014. After dealing with preliminary matters, my office asked the Village for a submission on August 6, 2014. My office made several attempts to acquire a submission from the applicant; however, no submission has been received. My office prepared a draft report and shared it with the Village mid-January 2015. My office asked for a response from the Village no later than February 2, 2015. No response was received.

II RECORDS AT ISSUE

[3] The record at issue is a two page letter dated July 26, 2013 from the acting clerk for the village council to the applicant. On the second page, the record states: “With regard to the request of the name of the person with the non-compliant septic tank, [the applicant] admitted that it was his tank and council was satisfied with the explanation he gave.”

[4] The applicant maintains that he did not admit that the tank was his.

III DISCUSSION OF THE ISSUES

[5] The Village of Killaly 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. Is the personal information in question accurate?

[6] Subsection 23(1)(k) of LA FOIP states:

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:

(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.

[7] The action of whether or not an individual admitted ownership of an object would qualify as personal information.

[8] Section 26 of LA FOIP states:

26 A local authority shall ensure that personal information being used by the local authority for an administrative purpose is as accurate and complete as is reasonably possible.

- [9] The applicant has said that the statement written in the July 26, 2013 letter from the Village which indicates that the applicant admitted ownership of a septic tank is false. He stated the following:

Because the statement "*[The applicant] admitted that it was his tank*" is a signed false statement I would like it taken off any public record. I still do not know the location and problem as requested because council will only say they acted on a rumor. I did not admit at anytime that it was my tank because I didn't have any information that I requested. How could I admit it was my tank when I didn't know the location?

- [10] The applicant also provided a copy of a letter from the Village to the applicant, dated February 24, 2014 indicating that the issue of the septic tank in question came to its attention because of rumour. The letter stated: "Council never received an official letter/documentation notifying us of the non-compliant septic tank; it was only brought to our attention through rumor. Records of this sort do not exist as you can't document a rumor."

- [11] The Village has not provided any proof to our office that the applicant admitted ownership of the septic tank was accurate.

- [12] In these circumstances, I find that the statement in question in the Village's letter of July 26, 2013, which qualifies as the applicant's personal information, is not accurate.

2. Has the Village of Killaly responded appropriately to the applicant's request for correction?

- [13] Subsections 31(1) and (2) of LA FOIP state the following:

31(1) An individual who is given access to a record that contains personal information with respect to himself or herself is entitled:

- (a) to request correction of the personal information contained in the record if the person believes that there is an error or omission in it; or
- (b) to require that a notation be made that a correction was requested but not made.

(2) Within 30 days after a request pursuant to clause (1)(a) is received, the head shall advise the individual in writing that:

- (a) the correction has been made; or
- (b) a notation pursuant to clause (1)(b) has been made.

...

[14] My office has received no indication that the Village of Killaly has made the correction on the record pursuant to subsection 31(2)(a) of LA FOIP or made a notation that the request was made pursuant to subsection 31(2)(b) of LA FOIP.

IV FINDINGS

[15] The statement in question qualifies as the applicant's personal information.

[16] The statement in question is not accurate pursuant to section 26 of LA FOIP.

[17] The Village of Killaly did not fulfil its duties outlined in subsection 31(2) of LA FOIP.

V RECOMMENDATIONS

[18] I recommend that the Village of Killaly make the correction to the July 26, 2013 letter as requested by the applicant and advise him of such pursuant to section 31(2)(a) of LA FOIP.

Dated at Regina, in the Province of Saskatchewan, this 5th day of February, 2015.

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