



REVIEW REPORT 033-2017

Village of Lucky Lake

June 19, 2017

Summary:

The Applicant requested utility revenue information for her property from 2001 to 2006. The Village of Lucky Lake denied access pursuant to subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) on the basis that the records qualified as personal information of another individual. The Commissioner found that only part of the record qualified as personal information. He recommended that the personal information be severed pursuant to section 8 of LA FOIP and the rest of the record be released to the Applicant.

I BACKGROUND

- [1] On February 16, 2017 the Village of Lucky Lake (the Village) received an access to information request for “copies of my property utility revenue from 2001 to 2016”.
- [2] On the same day, the Village denied the Applicant access to the responsive record pursuant to subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) because it constituted personal information.
- [3] The Applicant was dissatisfied with the response and requested a review by my office on February 16, 2017. On February 22, 2017, my office provided notification to both the Applicant and the Village of my intention to undertake a review.

II RECORDS AT ISSUE

- [4] It is helpful to explain that the Village bills for utilities four times a year. The utility services include water, sewer, recycling and infrastructure. A charge for sewer and recycling is a set fee every month for every resident. Water is billed according to usage; however, most utility bills reflect an estimated cost and the amount charged remains consistent. When a bill reflects actual usage it fluctuates from the usual estimated charge. Finally, with respect to the first part of the record, an infrastructure fee is not charged on the last bill of the year.
- [5] The record at issue is in three parts. The first part of the record is three pages. It is a utility ledger report for the Village of Lucky Lake from 2003 to 2016. The print out is about the Applicant's property and reflects amount billed for utilities and amount paid. The Village confirmed that individual bills and receipts for this time period also exist, but the Applicant indicated she is only interested in the ledger for the purposes of this review.
- [6] The second part of the record is three pages. The Village explained that before 2003, it had a different billing system, so there was no utility ledger report prior to 2003. Instead, the Village identified copies of six utility bills for the property in question from mid-2002 to the end of 2003 as responsive to the request.
- [7] The third part of the record is two pages. The first is a utility bill from June 2000 that shows the property was in arrears. The second is a receipt for a utility payment from June 2002 for the same amount as the June 2000 utility bill. The Village explained that because the property was in arrears, services to the property were cut off and no billing or payments occurred. Therefore, there are no further responsive records between June 2000 and June 2002.
- [8] The Village submits that the entire record constitutes personal information and withheld the entire record pursuant to subsection 28(1) of LA FOIP.

III DISCUSSION OF THE ISSUES

[9] The Village of Lucky Lake qualifies as a local authority pursuant to subsection 2(f)(i) of LA FOIP.

1. Did the Village appropriately apply subsection 28(1) of LA FOIP to the record?

[10] Subsection 28(1) of LA FOIP states that:

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.

[11] In order for subsection 28(1) of LA FOIP to apply, the information in the record must first be found to qualify as “personal information” pursuant to subsection 23(1) of LA FOIP. The Village has indicated that the information in the record qualifies as personal information pursuant to subsections 23(1)(b) and (j) of LA FOIP. These subsections provide:

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:

...

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(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;

...

(j) information that describes an individual’s finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness;

(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.

[12] Subsection 23(1) of LA FOIP provides a definition of personal information. However the items listed in the definition are 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.

Part 1 of the Record – Utility Ledger – 2003 to 2016

[13] This record is a utility ledger print out about the Applicant's property and reflects the amount billed for utilities and amount paid. The fields in the ledger are as follows: Date of transaction, batch number, Tr Code, Description, amount and balance. It also contains receipt numbers corresponding to a payment made.

[14] I will first address whether the information in the first part of the record identifies an individual.

[15] The ledger identifies only the property for which utilities were being provided. However, the Applicant confirmed she knows the people who lived there. The information that the Applicant has from other sources enables the Applicant to make accurate inferences about the identity of those who received and paid the utility bills.

- [16] Now I will examine if the information on the ledger is personal in nature. Ontario Information and Privacy Commissioner's (ON IPC) Privacy Complaint Report MR09-35 dealt with a breach involving hydro bills. In that report, the ON IPC found that hydro bills that contained customer's name, account number, address, amount charged for current billing period, amount charged for previous billing period, and amount of electricity used qualified as personal information.
- [17] However, in the present case, the information in the ledger is much less detailed. The entries in the ledger reflect only the amount and paid for utilities. It does not include the level of detail found on a bill and does not break down the charges per service. Significantly, it also does not include the amount of utilities used, namely water.
- [18] Further, the amount charged for utilities to this address were fairly consistent for each billing period within the 14 year timeframe. The Village explained that the charge for sewer and recycling remain the same every month for every Village household; with exception of periodic increases. Water is based on usage. However, most bills reflect an estimated cost. Only certain bills reflect an adjustment for actual usage. Finally, an infrastructure fee is not charged on the last bill of the year.
- [19] It is reasonable to expect those living on this property would be charged a fee for utilities. Sewer and recycling charges are the same for all in the Village and are not personal in nature. Further, an estimated water charge would not be personal in nature. Utility fees charged to this property that reflect estimated water usage are not personal information.
- [20] However, a resident's actual water usage would be personal in nature because it reveals information about an individual's water usage habits. Utility fees charged to this property that reflect the actual water usage would be personal in nature. This conclusion is supported by Order PO-1723 by the ON IPC which noted that "utility usage and billing information in the context of" the definition of personal information would be financial information. Therefore, I find that billing information that reflects the actual usage of water qualifies as personal information pursuant to subsection 23(1)(j) of LA FOIP. The Village should sever the billing amounts that reflect the actual water usage from the

record pursuant to section 8 of LA FOIP and release other billing amounts to the Applicant.

[21] My office has also confirmed with the Village that the batch number and Tr Code are not identifying numbers assigned to particular individuals. They are not personal in nature.

[22] However, there is other information in the ledger that is personal in nature. The record describes how much was paid toward each bill in every billing period, and in turn, the balance was remaining in each billing period. I find that whether a person did or did not pay a utility bill would be personal in nature and consistent with the definition of personal information pursuant to subsection 23(1)(j) of LA FOIP. Further, the receipt number that is assigned when a payment is made appears on the ledger. This receipt number is assigned to an individual and would qualify as personal information pursuant to subsection 23(1)(d) of LA FOIP.

[23] Pursuant to section 8 and subsection 28(1) of LA FOIP, I recommend that the Village sever billing amounts that reflect the actual water usage, receipt numbers, receipt amounts and balance column from part one of the record and release the rest to the Applicant.

Part 2 of the Record – Six Utility Bills – mid-2002 to 2003

[24] The second part of the record is six utility bills that span from June 2002 to December 2003. The bills include account number, bill number, date, present and previous meter readings, usage of water, charge for water, sewer and recycling, total bill for the month, arrears, credits and total due. The name and address of the resident of the property is on the bill. Finally, the water rate, charge and quantity also appear on the bill.

[25] I will first determine if there is an identifiable individual with respect to part two of the record. The six utility bills contain the name and address of the resident of the property at the time the bill was issued. There is an identifiable individual.

- [26] Now I must determine if some of the information is personal in nature. The name and contact information of the individual in question qualifies as personal information pursuant to subsections 23(1)(e) and (k) of LA FOIP.
- [27] The Village also noted that the account number on the bill and the bill number are assigned to the resident. They qualify as personal information pursuant to subsection 23(1)(d) of LA FOIP.
- [28] Also, the arrears/credits and total due portions of these utility bills indicate whether the resident did or did not pay a utility bill which is personal in nature.
- [29] Finally, the water meter readings (present and previous) and usage would be personal in nature because it describes how much water was used by the individual in question and constitutes personal information. Similarly, water fees that reflect the actual amount also qualify as personal information.
- [30] This information can be severed from the bill pursuant to section 8 of LA FOIP and withheld pursuant to subsection 28(1) of LA FOIP.
- [31] Next, I will consider whether the rest of the information in the second part of the record is personal in nature.
- [32] The date of service and date of billing are not personal in nature. They are about the Village's processes. Further, each bill has a message from the Village that does not vary from resident to resident. This is not personal in nature.
- [33] The "water rate", "charged" and "quantity" figures on each bill is the same on each bill and do not fluctuate based on usage or water charge. They are not personal in nature.
- [34] The sewage charge is the same on each bill. The recycle charge is the same for the first three bills and then increased for the last three bills. The increase is explained in one of the Village's messages. These are not personal in nature and do not qualify as personal information.

[35] Water usage fees that are an estimate are not personal in nature.

[36] Finally, one of the bills includes a onetime waterline replacement levy which is on every utility bill issued by the Village. This is also explained in the Village's message on one of the bills. It is not personal in nature.

Part 3 of the Record – Utility Bill and Receipt

[37] The third part of the record consists of a utility bill from June 2000 and a receipt for the same amount dated June 2002. The Village noted the utilities for the property was in arrears and utilities were cut off during that time. As such, there are no further responsive records between 2000 and 2002.

[38] Both the utility bill and the receipt are in the name of the Applicant. As such, any personal information contained in the third part of the record would be that of the Applicant. By providing this part of the record to the Applicant, there would be no disclosure of personal information to a third party. Withholding it would produce an absurd result. There would be no reason for the Village to withhold the personal information pursuant to subsection 28(1) of LA FOIP.

IV FINDING

[39] I find that only some of the record qualifies as personal information of someone other than the Applicant pursuant to subsection 23(1) of LA FOIP.

V RECOMMENDATIONS

[40] I recommend that, pursuant to section 8 of LA FOIP, the Village sever the following personal information from parts 1 and 2 of the record:

Part 1 of the record:

- billing amounts that reflect the actual water usage;
- receipt numbers;
- receipt amounts; and
- the entire balance column.

Part 2 of the record:

- the name and contact information of the resident;
- the account number on the bills;
- the bill numbers;
- the “arrear credits” portion of the bills;
- the “total due” portions of the bills;
- the water meter readings (present and previous);
- the usage; and
- water fees that reflect the actual amount.

[41] I recommend that the Village withhold the personal information found in parts 1 and 2 of the record pursuant to subsection 28(1) of LA FOIP and provide the rest to the Applicant.

[42] I recommend that the Village release the entire third part of the record to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 19th day of June, 2017.

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