



REVIEW REPORT 037-2016

Northern Village of Pinehouse

June 3, 2016

Summary: Despite efforts by the Commissioner's office, the Northern Village of Pinehouse did not provide a response to the Applicant's access to information request. The Village did not comply with subsection 7(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Commissioner determined this was a deemed refusal and recommended that the Village provide a section 7 response to the Applicant in accordance with LA FOIP

I BACKGROUND

[1] On December 23, 2016, Canada Post delivered an access to information request to the Northern Village of Pinehouse. The Applicant requested the following:

The Northern Municipalities Act Section 132(1) stipulates that Village council "shall establish a records retention and disposal schedule, and all documents of the municipality shall be dealt with in accordance with that schedule." REQUESTING a copy of the first Records Retention and Disposal Schedule for the Northern Village of Pinehouse, the Village Council, minute authorizing that schedule, and minutes of Council authorizing any subsequent revisions to that schedule; AND copy of all requests to dispose of records since January 1, 2008 and copies of minutes of Village Council indicating approval.

[2] On January 21, 2016, the Village replied to the Applicant indicating that it would be extending the deadline to reply to the access request by 30 days pursuant to subsection 12(1)(a)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

- [3] On March 7, 2016, my office received a request for review from the Applicant. He indicated that he had not received a response from the Village which he had submitted 76 days earlier.
- [4] My office made two attempts on March 9, 2016 to contact the Chief Administrative Officer who is responsible for the administration of LA FOIP, to enquire on the status of this access request. My office was advised both times that she was unavailable and to try back later.
- [5] On March 10, 2016 my office attempted to contact the Chief Administrative Officer but was advised that they were away from the office. A message was left requesting a return call.
- [6] When there was no response, an email was sent to both the Mayor and the Chief Administrative Officer on March 11, 2016 requesting that a response be sent to the Applicant by March 15, 2016.
- [7] On March 15, 2016, an email was sent to the Applicant advising that my office was still attempting to work with the Village in order acquire a response to this access to information request. Normally my office's practice is to only commence a review once the Village has officially responded to the access to information request.
- [8] On March 17, 2016, my office attempted to contact the Chief Administrative Officer to follow up in relation to the March 11, 2016 email. A message was left requesting a call back.
- [9] As of March 18, 2016, no response was received for the March 11, 2016 email. My office sent a letter via registered mail to the Mayor and the Chief Administrative Officer. In this letter my office requested that the Village respond to the Applicant within three days of receiving the letter, and requested that my office receive a copy of the response.

- [10] On March 21, 2016 the Chief Administrative Officer contacted my office advising that the Village was working on responding to this request and would try to get the response out by the end of the week. At this time it was requested that the Village follow up with my office on March 28, 2016. My office reminded the Chief Administrative Officer of some of the resources available to assist the Village in responding to access requests.
- [11] Canada Post's registered mail tracking system indicated that letter of March 18, 2016 had been received by the Village.
- [12] My office attempted to contact the Chief Administrative Officer on April 4, 2016. She was unavailable, and the message left was not returned.
- [13] The Village did not follow up with my office on March 28, 2016. On April 5, 2016, the Director of Operations of my office sent a registered letter to the Village requesting that they respond to this access to information request within three days of receipt of the letter.
- [14] My office attempted again to contact the Chief Administrative Officer on April 8, 2016. She was unavailable, and the message left was also not returned.
- [15] On April 20, 2016, I sent a registered letter to the Mayor and the Chief Administrative Officer urging the Village to respond to this request within five days of receiving the letter.
- [16] Canada Post's registered mail tracking system indicates that my letter dated April 20, 2016 reached Pinehouse Lake on April 27, 2016, however as of May 12, 2016 the letter had not been collected from the Post Office. At this time my office determined that we could not delay the review process any further and my office commenced this review on the basis that the Village was not responding within the timeframes set forth in section 7 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

II DISCUSSION OF THE ISSUES

1. Did the Village comply with section 7 of LA FOIP?

[17] Section 5 of LA FOIP states that an individual has a right to access records in the possession or under the control of a local authority, if he/she makes an access to information request:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a local authority.

[18] Subsection 7(1) of LA FOIP instructs a local authority on what to do if they receive an access to information request:

7(1) Where an application is made pursuant to this Act for access to a record, the head of the local authority to which the application is made shall:

(a) consider the application and give written notice to the applicant of the head's decision with respect to the application in accordance with subsection (2); or

(b) transfer the application to another local authority or to a government institution in accordance with section 11.

[19] Subsection 7(5) of LA FOIP states:

7(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

[20] Despite considerable effort from my office to assist the Village to respond to the Applicant's access to information request, it has not done so. My office currently has six other reviews underway with the Village. It has not yet cooperated with my office by providing responses to our requests. I find this to be a deemed refusal to provide access to the requested record.

III FINDINGS

[21] I find that the Village did not comply with section 7 of LA FOIP.

IV RECOMMENDATIONS

[22] I recommend that the Village release responsive records to the Applicant and there has been a refusal to provide access to the records requested.

Dated at Regina, in the Province of Saskatchewan, this 3rd day of June, 2016.

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