



REVIEW REPORT 091-2019

Rural Municipality of Senlac No. 411

April 7, 2020

Summary: The Applicant made an access to information request to the R.M. of Senlac (R.M.) for meeting minutes of the Suffern Lake Regional Park Authority. The R.M. responded indicating that the records did not exist. The Applicant requested a review of the search efforts of the R.M. The Commissioner found that the search efforts were adequate but that, going forward, the R.M. should maintain records of R.M. business.

I BACKGROUND

[1] On February 21, 2019, the Applicant made the following access to information request to the Rural Municipality of Senlac No. 411 (R.M.):

AGM meeting minutes for 2010 and 2011 from the Suffern Lake Regional Park Authority.

[2] On March 21, 2019, the R.M. provided a response to the Applicant advising that the records requested do not exist.

[3] On April 1, 2019, the Applicant requested that my office review the search performed by the R.M.

[4] On, April 25, 2019, my office notified both the Applicant and the R.M. that my office would be undertaking a review of the search.

II RECORDS AT ISSUE

[5] As my office is reviewing the R.M.'s search efforts, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[6] The R.M. is a "local authority" pursuant to subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Therefore, I have authority to conduct this review.

2. Did the R.M. conduct an adequate search?

[7] The focus of a search review is whether or not the public body conducted a reasonable search. A *reasonable search* is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request.

[8] The threshold that must be met is one of "reasonableness". In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable. LA FOIP does not require the public body to prove with absolute certainty that records do not exist.

[9] When a public body receives a notification letter from my office requesting details of its search efforts, the following can be included in the public body's submission (non-exhaustive):

- Outline the search strategy conducted:
 - For personal information requests – explain how the individual is involved with the public body (i.e. client, employee, former employee etc.) and why certain departments/divisions/branches were included in the search;

- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others;
- Identify the employee(s) involved in the search and explain how the employee(s) is “experienced in the subject matter”;
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search:
 - Describe how records are classified within the records management system. For example, are the records classified by:
 - alphabet
 - year
 - function
 - subject

Consider providing a copy of your organizations record schedule and screen shots of the electronic directory (folders & subfolders);

If the record has been destroyed, provide copies of record schedules and/or destruction certificates;

- Explain how you have considered records stored off-site;
- Which folders within the records management system were searched and explain how these folders link back to the subject matter requested?
 - For electronic folders – indicate what key terms were used to search if applicable;
- On what dates did each employee search?
- How long did the search take for each employee?
- What were the results of each employee’s search?

[10] The above list is meant to be a guide. Providing the above details is not a guarantee that my office will find the search conducted was reasonable. Each case will require different search strategies and details depending on the records requested.

[11] In its submission, the R.M. indicated that it searched the file folder for Suffern Lake Regional Park Authority (SLRPA) in its only filing cabinet as well as its electronic files. The R.M. also indicated that it contacted former Councillors, who were on the Suffern Lake

Regional Park Board (Board) during those years. The Councillors advised the R.M. that the Board had not provided the minutes to the R.M.

[12] My office reviewed the Constitution for the SLRPA. I note it provides:

5(d) The duties of the Secretary-Treasurer shall be as follows:

i. The Secretary-Treasurer shall draw up and keep a records of minutes of all meetings of the Authority.

...

v. Keep adequate and proper records which shall be open to inspection by any member of the Authority or by the Minister of Saskatchewan Environment and Resource Management or his representative on request.

[13] The responsibility for the records of the SLRPA lies with the Secretary-Treasurer of the SLRPA.

[14] Given the above, I find that the R.M. has performed an adequate search for the responsive records.

3. Should the R.M. have possession or control of the records?

[15] Although the R.M. has shown a reasonable search for the records, there is still the question of whether it should have copies of the records requested.

[16] *The Saskatchewan Gazette, Volume 115*, specifies that:

I, Gene Makowsky, Minister of Parks, Culture and Sport, pursuant to sections 7 and 11 of *The Regional Parks Act, 2013*, being satisfied it is in the public interest to do so, hereby order:

1 The Suffern Lake Regional Park Authority, constituted pursuant to Order in Council 1294/68, is hereby amended as follows:

(a) the RM of Hillsdale No. 440, the Village of Neilburg, the Village of Marsden, and the Town of Unity are removed from the Suffern Lake Regional Park Authority;

(b) the Suffern Lake Regional Park Authority shall be comprised of the following four municipalities: the RM of Senlac No. 411, the RM of Manitou Lake No. 442, the RM of Round Valley No. 410, and the Village of Senlac. Changes to the park authority composition have the support of the participating municipalities by council resolution;

[17] The SLRPA's Constitution indicates that:

The objects of the Authority shall be as follows:

(a) To develop, maintain and administer the Suffern Lake Regional Park in accordance with the needs and interests of the participating municipalities and of residents of Suffern Lake Regional Park and surrounding districts as they may be from time to time.

[18] It is clear that the members of the SLRPA, which are members of R.M.s, have the responsibility to participate on the SLRPA as a business obligation for the R.M. They are representing the needs and interests of their R.M. as well as those of park residents and surrounding districts. Although the responsibility lies with the Administrator of the SLRPA to create and maintain adequate records, best practice would indicate that, while doing R.M. business, the R.M. should also be keeping adequate records of any discussions or decisions that involves its members or interests. I recommend, going forward, the R.M. maintain adequate records of all R.M. business.

IV FINDING

[19] I find that the R.M. has performed an adequate search.

V RECOMMENDATION

[20] I recommend that, going forward, the R.M. maintain adequate records of R.M. business.

Dated at Regina, in the Province of Saskatchewan, this 7th day of April, 2020.

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