



REVIEW REPORT 102-2016

City of Prince Albert

June 17, 2016

Summary: The City of Prince Albert (City) received an access to information request from the Applicant for copies of a report and other information from an in camera meeting of the City. The City denied access to the records pursuant to subsections 15(1)(a), (b), 16(1)(a), (b), (c), 17(1)(d) and (e) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Upon review, the Commissioner found that subsection 15(1)(b)(i) of LA FOIP applied and recommended that the City continue withholding the records.

I BACKGROUND

[1] On April 6, 2016, the City of Prince Albert (City) received an access to information request from the Applicant for:

CUPE Local 882 Grievance No. 2016-01 in camera report and information from March 21, 2016 meeting.

[2] The City responded to the request by letter dated May 2, 2016 indicating that access was denied. The City advised the Applicant that the records were being withheld pursuant to subsections 15(1)(b), 16(1)(b) and 18(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[3] On May 3, 2016, my office received a Request for Review from the Applicant. During my office's early resolution process, the City decided to drop its reliance on subsection 18(1)(b) of LA FOIP. The City provided an updated response to the Applicant reflecting this by way of letter dated May 9, 2016.

[4] My office notified the City and the Applicant of our intention to undertake a review on May 12, 2016. After commencement of the review, the City clarified with the Applicant that he wanted a copy of the in camera report and any other information that was provided to City Council regarding the grievance. This would include the report, attachments to the report, council motion, any minutes that were taken from the discussion and council resolutions on the matter. The City then provided another updated response to the Applicant by way of letter dated May 24, 2016. The letter indicated that the City was adding subsections 15(1)(a), 16(1)(a), (c), 17(1)(d) and (e) of LA FOIP. On May 25, 2016, my office advised the City that it was best practice to clarify with Applicants early and ensure all records are identified prior to the first section 7 response being issued to applicants. In addition, that all exemptions being relied upon to withhold records are identified at that time.

[5] My office received a copy of the record at issue, an index of records and the City's submission on May 25, 2016. The Applicant's submission was received on May 12, 2016.

[6] On May 27, 2016, my office sought permission from the City to share its index of records with the Applicant. On May 30, 2016, the City consented and my office shared the index of records with the Applicant.

II RECORDS AT ISSUE

[7] The records at issue are two documents totaling nine pages that have been withheld in full:

1. A six page report dated March 15, 2016 which includes attachments; and
2. Three pages of in camera meeting minutes from March 21, 2016.

III DISCUSSION OF THE ISSUES

[8] The City is a "local authority" pursuant to subsection 2(f)(i) of LA FOIP.

1. Did the City properly apply subsection 15(1)(b)(i) of LA FOIP to the records at issue?

[9] Subsection 15(1)(b)(i) of LA FOIP provides:

15(1) A head may refuse to give access to a record that:

...

(b) discloses agendas or the substance of deliberations of meetings of a local authority if:

(i) an Act authorizes holding the meetings in the absence of the public; or

[10] The City applied subsection 15(1)(b)(i) of LA FOIP to all of the information in both documents. Subsection 15(1)(b)(i) is intended to protect the agendas or the substance of the deliberations of in camera meetings. The following test must be met in order for subsection 15(1)(b)(i) of LA FOIP to be found to apply:

1. A meeting of a council, board, commission or other body or a committee of one of them has taken place;
2. That a statute authorized the holding of the meeting in the absence of the public; and
3. That disclosure of the record at issue would reveal the actual substance of the deliberations or would permit the drawing of accurate inferences with respect to the substance of the deliberations of the meeting.

[11] Based on the in camera meeting minutes, it appears the date of the in camera meeting was March 21, 2016. The meeting was held by the Executive Committee.

[12] On June 9, 2016, my office contacted the City and requested further information on the Executive Committee, its role and delegated authority. On June 10, 2016, the City advised that the Executive Committee was established by City Council pursuant to *Bylaw No. 26 of 2014* (Bylaw). The City provided a copy to my office. The Bylaw, Part VI, provides for Council to establish the Executive Committee.

[13] Therefore, I find that the Executive Committee is a committee of City Council and that an in camera meeting of the committee has taken place. The first part of the test has been met.

[14] For the second part of the test, the City indicated that subsection 94(3) of *The Cities Act* authorizes meetings like the one in question to be held in camera. Subsection 94(3) of *The Cities Act* provides:

94(3) Any committee or other body that is established by council solely for the purpose of hearing appeals may deliberate and make its decisions in meetings closed to the public.

[15] *Schedule "A"* of the City's Bylaw states that the mandate of the Executive Committee includes:

1. With respect to all matters within the committee's policy areas, the mandate of the Executive Committee is:

...

b) to exercise every power or duty delegated by Council;....

[16] *Schedule "A"* also lists the policy areas the Executive Committee is responsible for which includes union grievances and collective bargaining negotiations. Under the heading *Delegated Authority* in *Schedule "A"*, the delegated authority of the Executive Committee includes "f) the approval or denial of all labour matters in regards to grievances submitted by a Union."

[17] Both the Applicant and the City provided my office with the *Grievance Procedure* contained within the Collective Bargaining Agreement between the City and the Canadian Union of Public Employees Local No. 882. The *Grievance Procedure* appears to reflect an appeal process. Step #4 provides:

Failing settlement being reached in Step #3, the Grievance Committee or Union Executive may, within fifteen (15) working days, submit the written grievance to the City Clerk and City Council shall hear the grievance within fifteen (15) working days and render their decision within fifteen (15) working days after hearing the grievance.

- [18] Subsection 94(3) of *The Cities Act* combined with *Bylaw No. 26 of 2014* appears to provide the authority for the meeting to be held in camera. Therefore, I find that the second part of the test has been met.
- [19] For the last part of the test, the City must establish that by disclosing the records at issue, they would reveal the substance of the deliberations or would permit the drawing of accurate inferences with respect to the substance of the deliberations of the in camera meeting.
- [20] A *deliberation* is a discussion or consideration of the reasons for and against an action. It refers to discussions conducted with a view towards making a decision.
- [21] *Substance* generally means more than just the subject or basis of the meeting. Rather, it is the essential or material part of the deliberations themselves.
- [22] In this case, I must determine whether the contents of the report and the meeting minutes would reveal either directly or by inference, the substance of the Executive Committee's deliberations. The report contains a recommendation and it appears that the Executive Committee considered the report and made its decision based on it.
- [23] The content of in camera minutes (i.e. what matters were discussed), views council members expressed about those matters and how they voted would generally be caught by this exemption.
- [24] While I cannot disclose the contents of the report without revealing withheld information, I find that all of the information in the report is entirely and directly related to the matter that was before the Executive Committee for decision, and it contains specific details directly tied to the recommendation. I also find that the meeting minutes reveal the contents of the report. For these reasons, I find that the third part of the test has been met.

[25] In conclusion, I find that the City can rely on subsection 15(1)(b)(i) of LA FOIP to withhold the report and the in camera meeting minutes. As I have found this exemption applies, I do not need to consider the remaining exemptions applied by the City.

IV FINDING

[26] I find that the City appropriately applied subsection 15(1)(b)(i) of LA FOIP to the record.

V RECOMMENDATION

[27] I recommend that the City continue to withhold the records at issue.

Dated at Regina, in the Province of Saskatchewan, this 17th day of June, 2016.

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