



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 121-2019, 122-2019

Suffern Lake Regional Park Authority

April 3, 2020

Summary: Two Applicants made access to information requests to the Suffern Lake Regional Park Authority (SLRPA) under both *The Freedom of Information and Protection of Privacy Act* (FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The SLRPA responded indicating they were not subject to the legislation and therefore, not required to respond. The Commissioner found that the SLRPA was not a local authority nor a government institution and therefore not subject to the legislation. The Commissioner recommended that LA FOIP be amended to include regional parks as local authorities.

I BACKGROUND

[1] On March 11, 2019, an Applicant made a request for information under *The Freedom of Information and Protection of Privacy Act* (FOIP) to the Suffern Lake Region Park Authority (SLRPA).

[2] On April 3, 2019 and April 17, 2019, a second Applicant made requests for information under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to the SLRPA.

[3] On April 9, the SLRPA's legal counsel responded to the first Applicant indicating that SLRPA does not fall within the jurisdiction of FOIP and indicated that:

On review of the FOIP Act, it does not appear that a regional park is in fact a "government institution" as defined.

[4] On April 17, 2019, the SLRPA's legal counsel responded to the second Applicant indicating that SLRPA does not fall within the jurisdiction of LA FOIP and as such, indicated that:

. . . it does not appear that the Act requires Suffern to take further action and we write to inform you of Suffern's position. Our office also notes that some of the documents that you have requested may relate to the current Provincial Court matter between yourself and Suffern. The documents that may be relied upon by Suffern as evidence at trial have been provided to the Provincial Court of Saskatchewan and I enclose a copy of the same for your review. This is in accordance with the disclosure requirements of the trial process and not an acknowledgment of any alleged obligations under the Act.

[5] On April 17, 2019 and April 22, 2019, my office received requests for review from each of the Applicants.

[6] On April 25, 2019, my office provided notification to both Applicants and the SLRPA of my intent to undertake a review to determine whether SLRPA is subject to LA FOIP or to FOIP.

II RECORDS AT ISSUE

[7] My office must consider if the SLRPA is a local authority or a government institution as defined in LA FOIP and FOIP, and whether my office has jurisdiction; therefore, there are no records to consider at this point.

III DISCUSSION OF THE ISSUES

1. Is SLRPA subject to LA FOIP?

[8] In order for LA FOIP to apply, SLRPA must qualify as a local authority, as defined by subsection 2(f) of LA FOIP, which provides:

2(f) "local authority" means:

(i) a municipality

...

(iv) a committee of a council of a municipality;

...

(v) any board, commission or other body that:

(A) is appointed pursuant to *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act, 2010*; and

(B) is prescribed;

...

(xvii) any board, commission or other body that:

(A) receives more than 50% of its annual budget from the Government of Saskatchewan or a government institution; and

(B) is prescribed;

[9] In order for a board, commission or other body to be prescribed, it must be prescribed in *The Local Authority Freedom of Information and Protection of Privacy Regulations* (LA FOIP Regulations). The LA FOIP Regulations Appendix indicates:

PART I

Boards, Commissions and Other Bodies Prescribed as Local Authorities

[*Subclause 2(f)(v) of the Act*]

1. A board, commission or other body established pursuant to *The Cities Act*
2. A board, commission or other body established pursuant to *The Municipalities Act*
3. A board, association, commission or other organization appointed pursuant to *The Northern Municipalities Act*.

PART II

Boards, Commissions and Other Bodies

Prescribed as Local Authorities
[Subclause 2(f)(xvii) of the Act]

...

2. Community clinics as defined in section 263 of *The Co-operatives Act, 1996*
3. health care organizations as defined in *The Provincial Health Authority Act*
- ...
5. Health Quality Council
6. Saskatchewan Assessment Management Agency
7. Saskatchewan Cancer Agency
8. The Saskatchewan Health Research Foundation
9. Saskatchewan Impaired Driver Treatment Centre

a) Is the SLRPA a municipality?

[10] *The Municipalities Act* defines municipality as:

2(1) In this Act:

...

(w) “**municipality**” means a town, village, resort village, rural municipality, municipal district or restructured municipality;

[11] The following subsections of *The Municipalities Act*, further clarifies the above definition of municipality:

(v.1) “**municipal district**” means a municipal district incorporated pursuant to this Act;

...

(mm) “**resort village**” means a resort village incorporated or continued pursuant to this Act; - must be a hamlet

...

(rr) “**rural municipality**” means a rural municipality incorporated or continued pursuant to this Act;

[12] The SLRPA was established pursuant to subsection 8(1) of *The Regional Parks Act, 2013* as follows:

8(1) On receipt of an application pursuant to section 7 and if the minister is satisfied that it is in the public interest to do so, the minister may, by order:

- (a) constitute the regional park authority; and
- (b) establish the regional park to consist of the land described in the application.

[13] *The Regional Parks Act, 2013*, defines regional park and regional park authority as:

2 In this Act:

(e) “**regional park**” means a park established or continued pursuant to this Act;

(f) “**regional park authority**” means a regional park authority constituted or continued pursuant to this Act;

[14] *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;

[15] The SLRPA was established pursuant to *The Regional Parks Act* and is not a municipality as defined in *The Municipalities Act*.

b) Is the SLRPA a committee of a council of a municipality?

[16] *The Municipalities Act* indicates that councils are governing bodies of a municipality:

79(1) Each municipality is governed by a council.

(2) The council is responsible for exercising the powers and carrying out the duties of the municipality.

[17] *The Municipalities Act* sets out how the council is made-up and provides that:

80(1) Subject to subsection (2), a council consists of:

...

(b) in the case of a rural municipality:

(i) a reeve; and

(ii) a councillor for each division

[18] The SLRPA is the governing body of the Suffern Lake Regional Park, which includes members from three rural municipalities, one village and three cabin owners. Regional parks are established pursuant to *The Regional Parks Act, 2013*, and are not considered municipalities as defined in *The Municipalities Act* and, as such, is not the council of a municipality.

c) Is the SLRPA appointed pursuant to *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act, 2010*?

[19] As mention above in paragraph [12], the SLRPA was established pursuant to *The Regional Parks Act* and not *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act, 2010*.

d) Does the SLRPA receive more than 50% of its annual budget from the Government of Saskatchewan or a government institution and is prescribed?

[20] In its submission, the SLRPA indicated that it:

... does not receive more than 50% of its annual budget from the Government of Saskatchewan. Moreover, in any event, a Regional Park does not fall within the prescribed bodies outlined in the LA FOIP Regulations. . . This makes it clear that Regional Parks are not within s. 2(f)(xvii).

[21] As the SLRPA does not meet the criteria set out in subsection 2(f) of LA FOIP, I find that the SLRPA is not a local authority.

2. Is SLRPA subject to FOIP?

[22] In order for FOIP to apply, SLRPA must qualify as a government institution, as defined by subsection 2(1)(d) of FOIP, which provides:

2(1) In this Act:

...

(d) **“government institution”** means, subject to subsection (2):

...

(ii) any prescribed portion of a board, commission, Crown corporation or other body, or any prescribed portion of a board, commission, Crown corporation or other body, whose members or directors are appointed, in whole or in part:

[23] *The Freedom of Information and Protection of Privacy Regulations* (FOIP Regulations) define prescribed government institutions as:

3 For the purpose of subclause 2(1)(d)(ii) of the Act:

(a) The bodies set out in Part I of the Appendix; and

...

[24] In order for subsection 2(1)(d)(ii) of FOIP to apply, the SLRPA would need to be a prescribed body in Part I of the Appendix in the FOIP Regulations. In a review of the FOIP Regulations, SLRPA is not listed and therefore is not prescribed. In fact, no regional park

authorities were prescribed. I therefore find that the SLRPA is not a government institution.

[25] I find that I do not have jurisdiction over SLRPA as they are not subject to LA FOIP or FOIP.

[26] When the Legislative Assembly passed LA FOIP, it clearly intended that all cities, towns and municipalities were to be covered. The SLRPA is a body, which was established to manage a section of an existing municipality, and it is made up of members of the municipality as well as surrounding towns, villages and municipalities. It is reasonable to say that if the members are made up of municipalities, then regional parks should be covered by LA FOIP. Thus, I am recommending that the government consider legislation that would make regional parks local authorities under LA FOIP.

IV FINDINGS

[27] I find that the SLRPA does not qualify as a local authority as defined in LA FOIP.

[28] I find that I do not have jurisdiction over SLRPA, as it is not subject to LA FOIP.

[29] I find that the SLRPA does not qualify as a government institution as defined in FOIP.

[30] I find that I do not have jurisdiction of SLRPA, as it is not subject to FOIP.

V RECOMMENDATIONS

[31] I recommend the Minister responsible for regional parks request the Minister of Justice amend the legislation to include regional parks, as a local authority pursuant to LA FOIP.

[32] I recommend the Minister of Justice consider amending the legislation to include regional parks, as a local authority pursuant to LA FOIP.

Dated at Regina, in the Province of Saskatchewan, this 3rd day of April, 2020.

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