



REVIEW REPORT 192-2016

Rural Municipality of Baildon No. 131

September 15, 2016

Summary:

The Rural Municipality of Baildon No. 131 (Baildon) applied subsection 14(1)(m) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to records. The Commissioner found that the records were publically available and LA FOIP did not apply. However, since Baildon applied exemptions and failed to refer the Applicant to where he could obtain the records, he continued his review of the record. He found that subsection 14(1)(m) of LA FOIP applied only to an account number and password found on the record and recommended that Baildon release the rest.

I BACKGROUND

- [1] On March 29, 2016, the Rural Municipality of Baildon No. 131 (Baildon) received an access to information request for certain information including information about a lien on a certain property.
- [2] Baildon replied to the Applicant on April 20, 2016 indicating that it was withholding an “ISC Application for Lien” pursuant to subsection 23(1)(d) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).
- [3] On July 13, 2016, the Applicant requested a review by my office. As a result of my office’s early resolution process, Baildon sent the Applicant a letter indicating that subsection 14(1)(m) of LA FOIP was being applied to the record in question instead of

what had previously been cited. The Applicant indicated to my office that he wished to proceed with the review.

[4] On August 8, 2016, my office provided notification to Baildon and the Applicant of our intention to undertake the review.

II RECORDS AT ISSUE

[5] The record at issue is five pages. Four of the pages are mostly blank Information Services Corporation (ISC) forms pertaining to acquiring information about the lien. The last page is a copy of a letter dated June 23, 2015 from Baildon to the Applicant. Baildon is relying on subsection 14(1)(m) of LA FOIP to withhold the entire record.

III DISCUSSION OF THE ISSUES

[6] Baildon qualifies as a local authority for the purposes of LA FOIP pursuant to subsection 2(f) of LA FOIP.

1. Does LA FOIP apply in these circumstances?

[7] Subsection 3(1)(a) of LA FOIP states:

3(1) This Act does not apply to:

(a) published material or material that is available for purchase by the public;

[8] The record in question appears to have been obtained by Baildon directly from ISC. A search of the land titles registry maintained by ISC for the appropriate fee would provide the Applicant with the information he seeks.

[9] As such, LA FOIP does not apply to this publically available information pursuant to subsection 3(1)(a) of LA FOIP.

[10] However, subsection 7(2)(b) of LA FOIP requires that, when an access request is received, a local authority refer the Applicant to where the public record is available. It provides:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:

...

(b) if the record requested is published, referring the applicant to the publication;

[11] When Baildon provided its section 7 response to the Applicant, it chose to apply exemptions to records it had in its possession rather than referring him to ISC. Further, one of the pages of the record is a letter written by Baildon. Even though Baildon may have received it back from ISC as part of the *Land Registry Packet*, it originated with Baildon. As such, I will continue with the review and make a recommendation with respect to the record.

[12] I encourage all public bodies to release public information to Applicants. This especially applies if the public body has already spent taxpayer money to retrieve the information.

2. Does subsection 14(1)(m) of LA FOIP apply to the record?

[13] Subsection 14(1)(m) of LA FOIP states:

14(1) A head may refuse to give access to a record, the release of which could:

...

(m) reveal the security arrangements of particular vehicles, buildings or other structures or systems, including computer or communication systems, or methods employed to protect those vehicles, buildings, structures or systems.

[14] My office has established the following test for this exemption:

1. Does the information reveal security arrangements of particular vehicles, buildings, other structures or systems? **or**

2. Does the information reveal security methods employed to protect the particular vehicles, buildings, other structures or systems?

[15] My office has stated that security generally means a state of safety or physical integrity. The security of a building includes the safety of its inhabitants or occupants when they are present in it. Examples of information relating to security include methods of transporting or collecting cash in a transit system, plans for security systems in a building, patrol timetables or patterns for security personnel, and the access control mechanisms and configuration of a computer system.

[16] In its submission, Baildon stated:

Section A of the Land Registry Packet Cover Page and Section A on page 2 of the Application for Interest Registrations contains the Municipality's security access information to the land registry database which allows those who log in relatively full access to ISC's records. Revealing this information would be a breach of agreement with ISC and breach of security of a Crown Corporation which could lead to legal action and/or imprisonment.

[17] I agree that releasing Baildon's ISC account number and password to the Applicant would reveal a small piece of ISC's access control mechanism of a computer system. I am not persuaded that any of the rest of the information would qualify for this exemption, especially the copy of Baildon's letter to the Applicant, which is also publically available.

[18] Section 8 of LA FOIP requires a local authority to release as much information as possible, severing only the information to which exemptions apply. It provides as follows:

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

[19] I find that subsection 14(1)(m) of LA FOIP applies only to the ISC account number and password found in the record.

IV FINDINGS

[20] I find the record qualifies as material that is available for purchase by the public pursuant to subsection 3(a) of LA FOIP.

[21] I find that subsection 14(1)(m) of LA FOIP applies only to the ISC account number and password found in the record.

V RECOMMENDATIONS

[22] I recommend that Baildon release the entire record with the exception of the ISC account number and password to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 15th day of September, 2016.

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