

FILE NO. - 95/021 ★

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION
REQUESTED FROM THE CITY OF REGINA**

The background to this matter is a series of complaints over a period of about 5 years by neighbours of [REDACTED] alleging mainly that he was carrying on a lawn mower repair business at his residence in contravention of a City zoning bylaw. These complaints resulted in investigations by the Bylaw Enforcement Unit, but no charges were laid.

[REDACTED] applied for access to records of the complaints and investigators' reports under *The Local Authority Freedom of Information and Protection of Privacy Act* (the Act) to the City of Regina. By letter dated October 24, 1995 to [REDACTED] solicitors the City of Regina replied:

"This is to advise that the above application for access has been processed and that the review of the third party concerns is complete. A portion of the record is attached, however access to some of the information contained in the record is denied.

Your request for access to inspectors' reports is denied in accordance with the following sections of The Local Authority Freedom of Information and Protection of Privacy Act:

Section 14(1)(a),(b),(c),(e),(f), and (k) in that releasing this information would interfere with the detection, investigation, prevention or prosecution of offenses; be injurious to the enforcement of bylaws; interfere with investigations; reveal investigative techniques; disclose the identity of confidential sources of information or information furnished by sources with respect to lawful investigations; and interfere with law enforcement matters or disclose information respecting law enforcement matters.

Section 20 which would reveal information that could threaten the safety, physical or mental health of an individual.

Section 23(1)(e) which would reveal information about an identifiable individual which includes their home or business address.

Your request for access to information regarding complaints made to the City of Regina is denied based on the following sections of The Local Authority Freedom of Information and Protection of Privacy Act:

Section 20 which would reveal information that could threaten the safety, physical or mental health of an individual.

Section 23(1)(e) which would reveal information about an identifiable individual which includes their home or business address.

Section 28 which prohibits disclosure of personal information except with the person's consent. In accordance with Section 33 the affected third parties where contacted, however, objections to the release of this information were received."

██████████ duly requested a review pursuant to the Act, and I have now completed my review, which includes an examination of the records and a consideration of written representations received from the City of Regina and from ██████████ through his solicitor.

Under the Act, the onus is on the City to establish that the records for which it is claiming an exception come clearly within one of the excepting provisions of the Act.

The claim under Section 20 that disclosure could threaten the safety or the physical or mental health of an individual does not appear to me to be supported or even seriously advanced. No such individual has been identified by the City and no basis for this claim has been established.

On March 31, 1992 [REDACTED] solicitor sent letters to each and every one of the complainants in which he requested that they should desist from what he described as harassment of his client. The identity of the complainants and the nature of these complaints are known to the Applicant.

In my view, the complaints in question are, in every case, personal information about [REDACTED] [REDACTED] which he is entitled to access pursuant to the provisions of Section 30 of the Act unless some exception is established. As I have indicated, it does not appear to me that any such exemption applies, and accordingly it is my recommendation that these records be disclosed to the Applicant.

With respect to the reports of the investigators I have come to the same conclusion. These reports were made by inspectors employed by the City of Regina in its Bylaw Enforcement Unit in the course of their investigation of complaints received with respect to possible violation of a City bylaw regulating the use of a private residence for the purpose of carrying on a trade, profession or occupation. These investigations did not result in a charge of any violation of the bylaw against [REDACTED], and the investigation, from the information which I have, has been concluded for some considerable time without any evidence of any infraction of the bylaw having been gathered by the investigators.

The City has, in its submission to me, stated that:

"With respect to the Bylaw Enforcement Officer's reports ... the City refused access to such records pursuant to the following exemptions:

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

(a) prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence...;

(b) be injurious to the enforcement of:

(iii) a ... bylaw;

(c) ... disclose information with respect to a lawful investigation;

...

(e) ... reveal investigative techniques or procedures currently in use or likely to be used;

(f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or law enforcement matter;

...

(k) interfere with a law enforcement matter or disclose information respecting a law enforcement matter;"

The evidence I have is that the complaints originated in 1989 and were investigated by the City over a period of time thereafter. The last report of any actual investigation is dated June 25, 1992. There is no record of any subsequent reports or investigation with respect to the use or occupation of [REDACTED] property. The last report relating to a check on the licence plate number of a vehicle calling at [REDACTED] address is dated June 9, 1995 when it was determined that a [REDACTED], licence no. [REDACTED] belonged to a close friend of [REDACTED] who frequently called upon him socially.

It is a fair conclusion that the investigation is no longer proceeding, that it has not, in fact, proceeded for some time, and was not in progress in October of 1995 when the City refused

to disclose the records in question. The last complaint which appears to have been received by the Bylaw Enforcement Unit is dated June 2, 1995 regarding the above mentioned red [REDACTED], licence no. [REDACTED], and enquiring as to whether [REDACTED] had a permit to build a double garage on his premises. The next earliest complaints recorded were in August of 1994.

I am unable to see how it can be suggested that disclosure of these reports will interfere with an investigation or have any of the results suggested by the City. The investigation is no longer in progress and apparently was concluded on the basis that there was no evidence to support allegations of any infraction of the bylaw by [REDACTED]. The reports do not, in my view, reveal "investigative techniques or procedures" other than those of common use in any investigative procedure, nor do they disclose the identity of any confidential source.

Accordingly, I have concluded and recommend that the City disclose the records in question to the Applicant pursuant to Section 31 of the Act.

Dated at Regina, Saskatchewan this day of September, 1996.

**Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan**