

FILE NO. 95/1*

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

[REDACTED] is the owner of a property in Saskatoon at [REDACTED]
[REDACTED] On or about November 24, 1994 she filed an Access to
Information Request Form with the City of Saskatoon for access to records which
she described as follows:

"Any zoning + accomodation history pertaining to [REDACTED] to
present day.

Any zoning information and letters of complaint or inquiry pertaining to the
property, property uses. Pertaining to the property as an accomodation.

By a letter dated December 12, 1994 she was advised by the City Clerk:

"Your request has been processed. We are able to provide you with most of
the information on the file.

The exceptions are:

- (a) documents or notes containing internal deliberations and consultations involving employees of the City of Saskatoon, which is covered under section 16(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act*,
- (b) letters of complaint, which, in our view fall under section 23(1)(e) and (g) of the Act. Section 1(e) states that the home address of the individual cannot be released and section 1(g) states that correspondence sent to a local authority by the individual that is implicitly or explicitly of a private or confidential nature cannot be disclosed."

On January 4, 1995 the Applicant filed a Request for Review as follows:

"I am requesting release of the letters of complaint on the basis that it was released to other parties both in writing and over the phone to members of the public. ... I further request that internal notes and deliberations which could ultimately affect the use of and subsequent value and sale of the property have a direct affect on my personal financial security and therefore should not be withheld. I purchased the property and buildings not for demolition but for potential investment lifestyle and possibility of resale value and any internal deliberations that affect future changes or rules by City Planning with regards to both buildings and land will have a direct influence on my family. On this basis I request the information so that I may continue to pay taxes and mortgage payments etc. secure in the knowledge that my continued investment is not a futile endeavor or a less than prudent investment."

Consequently I asked for and I have been provided by the City of Saskatoon with the documents which they have and which were not disclosed to or provided to the Applicant.

I have reviewed these documents in detail and I will deal firstly with the question of complaints received in writing with respect to the property in question, or more

particularly by the use which the Applicant is alleged to be making of the property. There are four documents which are in the nature of complaints, two of which are letters signed by the complainants, and two of which are memoranda apparently prepared by the City Planning Department as a record of verbal complaints received from two other parties.

There is nothing in the record to indicate that these complaints were received on a confidential basis, either explicitly or implicitly. One can only conclude that the complainants intended that their complaints should be acted upon by the City, and indeed it appears that to some extent the City did so.

It does not appear to me that the said complaints are exempt from disclosure under any exception in *The Local Authority Freedom of Information and Protection of Privacy Act* (the "Act"). There is nothing in the file to indicate that these complaints were submitted on a confidential basis or that there was any expectation of confidentiality when they were made. In fact the City does not suggest otherwise but stated that they were relying on a policy of long standing that such complaints would not be disclosed to the individual about whom the complaint was received.

In my view such a policy can no longer prevail against the provisions of the Act which provides:

"5 Subject to this act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a local authority."

Accordingly, access to records cannot be withheld on the basis of a policy, however longstanding, but may only be withheld if the record comes within an exception or exemption specifically provided for in the Act.

The City relied on Section 23(1)(e), which provides:

"23(1) Subject to subsection (2), "personal information" means personal information about an identifiable individual that is recorded in any form, and includes:

(e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;"

The records of the above mentioned complaints do include the name and address of the complainants, but this by itself does not make this information "personal information." Such information may be personal if the protection of the privacy of the individual would be invaded or impaired by the disclosure of such information. However, when a complaint is made by an individual about another individual it would appear that the complainant has no reasonable expectation that the matter will be held confidential. Indeed, it is the expectation of the complainant that the matter will be investigated, and in those circumstances a reasonable expectation is that the person

about whom the complaint has been made would be entitled to know who was complaining and the nature of the complaint.

With respect to the balance of the records which were forwarded to me, the exemption claimed is under Section 16(1)(b) of the Act which provides:

"16(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

(b) consultations or deliberations involving officers or employees of a local authority;"

While certain of the documents in question consist of memoranda recording information or conveying information from one employee of the City of Saskatoon to another, I am unable to conclude that these documents are records of "consultations or deliberations" within the meaning of Section 16(1)(b). They are purely factual in nature and lack any quality of confidentiality that would justify non-disclosure. They do not appear to me to record consultative or deliberative activities of City employees.

Of the documents provided to me there is, however, one document which, in my view, should not be disclosed, namely a letter dated May 30, 1994 written by the City to third parties which does not appear to me to be responsive to the request of the Applicant.

Accordingly, it is my recommendation that the documents be disclosed to the Applicant with the one above mentioned exception.

Dated at Regina, Saskatchewan this 9th day of March, 1995.

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