



REVIEW REPORT 286-2016

Town of Kindersley

February 23, 2017

Summary:

The Applicant submitted four access to information requests to the Town of Kindersley (the Town). The Applicant contacted the office of the Information and Privacy Commissioner (IPC) when he did not receive responses. The IPC found that it was reasonable that the Town seek clarification from the Applicant regarding his first two access to information requests. Also, through the IPC's early resolution process, the Applicant received responses to his third and fourth access to information requests. The Applicant was dissatisfied with the responses. The IPC undertook separate reviews regarding the Applicant's third and fourth access to information requests.

I BACKGROUND

[1] On May 24, 2016, the Town of Kindersley (the Town) received the following access to information request:

Correspondence, E-mail's [sic], Letters, Faxes, applications, standard forms regarding signs in the town of kindersley [sic] since the inception of the sign bylaw. Copy of all documentation from bylaw officers regarding warnings and fines in the town of kindersley [sic] regarding the Sign [sic] bylaw.

[2] On May 26, 2016, the Applicant revised his original access to information request to the Town by submitting a second access to information request. The revised request was as follows:

E-mails, Letters, Faxes, applications, authorizations for signs under the sign bylaw in Kindersley since the inception of the sign bylaw. Copy of all emails or memorandum

instructing bylaw officers regarding warnings and fines in the town of Kindersley regarding signs and enforcement of sign bylaw.

[3] In a letter dated June 8, 2016, the Town sought clarification from the Applicant regarding the two access to information requests.

[4] On June 30, 2016, the Town received a third access to information request from the Applicant. This third request was as follows:

1. Correspondence, letters, e-mail, faxes, applications, standard forms originating at the town of Kindersley, and to the town of Kindersley relating to sign applications made on May 23, 2016 by [name of Applicant]
2. Internal decision notes, memoranda, and generally the record in your files relating to approvals for plans, and subdivisions, and development plan relating to sign applications made on May 23, 2016 by [name of Applicant]
3. A copy of chief administrator officer files, Planning Department files, Economic development files, inspection files, council resolutions and correspondence, relating to sign applications made on May 23, 2016 by [name of Applicant]
4. A copy of any correspondence, letters, emails, faxes, applications, standard forms in the possession of the town of Kindersley relating to sign applications made on May 23, 2016 by [name of Applicant]

[5] In a letter dated August 2, 2016, the Town wrote to the Applicant stating it had received the three separate requests and that the Town's Corporate Clerk is the Applicant's point of contact. It also indicated that the Town's Land Use Planner would be "an integral part" of the Town's processing of the Applicant's third request but that she was away from the office. The Town offered some information to the Applicant in the letter about the sign permits the Applicant was inquiring about.

[6] On October 28, 2016, the Applicant re-submitted his second (which was a revision of his first access to information request) and third access to information requests to the Town. He also submitted a fourth access to information request. The request is as follows:

Copies of All [sic] Correspondence, E-mail's, Letters, Faxes, applications, internal documents and decisions, notes, affidavits, memorandums and generally the records in your files regarding any complaints made against [name of Applicant] and any

related company of [name of Applicant and names of companies] in the town of Kindersley's records dating back to October 1, 2015.

[7] On December 6, 2016, the Applicant requested a review by my office because he had not received a response from the Town to his access to information requests. In an email dated December 10, 2016 to my office, he said he felt that the requests were "fairly self-explanatory" and he did not know what more he could do to clarify his requests.

[8] On December 14, 2016, my office notified both the Town and the Applicant that it would be undertaking a review.

II DISCUSSION OF THE ISSUES

[9] The Town is a "local authority" pursuant to subsection 2(f)(i) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

1. Did the Town fulfill its duty to assist the Applicant on the first two access to information requests?

[10] Two of the Applicant's first access to information requests were for records related to "signs" that were related to the "sign bylaw". The Applicant specified he wanted records since the inception of the sign bylaw.

[11] In its submission, the Town asserts it had to clarify two of the Applicant's first access to information requests because it does not have a bylaw called "the sign bylaw". It needed to understand which bylaw the Applicant is referring to. It explained that it has a Town of Kindersley Zoning Bylaw - April 2014 that references signs. It also had a Garage/Yard Sales and Community Events Sign Bylaw in 2008 but it has since been repealed.

[12] Subsection 6(3) of LA FOIP provides that a local authority may clarify an access to information request with the Applicant if it is unable to identify the records requested. Subsection 6(4) of LA FOIP provides that a request is deemed to be made when the

record is identified. In other words, the request is deemed to be made when the request has been clarified. Subsections 6(3) and 6(4) of LA FOIP provides:

6(3) Where the head is unable to identify the record requested, the head shall advise the applicant, and shall invite the applicant to supply additional details that might lead to identification of the record.

6(4) Where additional details are invited to be supplied pursuant to subsection (3), the application is deemed to be made when the record is identified.

[13] As noted earlier, the Applicant believes his requests were “self-explanatory”. I disagree. Since the Town does not have a bylaw called “the sign bylaw”, I find it reasonable that the Town clarify with the Applicant precisely which bylaw he is referring to. Second, there are many different types of signs, including traffic signs, election signs, real estate signs, signs on commercial buildings, signs on public property, temporary or permanent signs, or portable signs.

[14] Applicants have a responsibility to specify the subject matter of the record requested with sufficient particularity as to time, place and event to an individual, familiar with the subject matter, to identify the record. My office encourages local authorities and government institutions to keep in close, direct contact with applicants while processing access to information requests. This will lead to greater chances of applicants receiving the records they seek and to avoid unnecessary work and lower fees.

[15] I find it reasonable that the Town sought clarification from the Applicant for two of the Applicant’s first access to information requests. The Applicant has the responsibility to indicate what bylaw he is referring to.

[16] During this review, my office recommended that the Town not proceed with the processing of two of the Applicant’s first access to information requests until the Applicant responds to the Town’s June 8, 2016 letter and clarifies his requests. In a letter dated February 7, 2017 to my office, the Town agreed to comply with this recommendation. It also said it would be happy to assist the Applicant upon receiving the Applicant’s response to its letter.

2. Did the Town properly respond to the Applicant's third access to information request?

[17] The Town received the Applicant's third access to information request on June 30, 2016. This third access to information request is for records related to the sign applications made by the Applicant on May 23, 2016.

[18] When the Applicant first contacted my office, the Town had not responded to the Applicant's third request. Through my office's early resolution process, the Town eventually provided a response to the Applicant. The Applicant was dissatisfied with the response. Therefore, the issues regarding the Applicant's third access to information request are discussed in my office's Review Report 287-2016.

3. Did the Town properly respond to the Applicant's fourth access to information request?

[19] As noted in the background section, the Applicant made a fourth access to information request on October 28, 2016. When the Applicant first contacted my office, the Town had not responded to the Applicant.

[20] Through my office's early resolution process, the Town provided a response to the Applicant on December 20, 2016. The Applicant was dissatisfied with the response. The issues regarding the Applicant's fourth access to information request are discussed in my office's Review Report 288-2016.

IV FINDING

[21] I find it reasonable that the Town sought clarification from the Applicant for two of the Applicant's first access to information requests.

V RECOMMENDATIONS

[22] I recommend that the Applicant respond to the Town's letter dated June 8, 2016 and clarify his two access to information requests. He should identify which bylaw he is referring to as "the sign bylaw". I also urge the Applicant to work with the Town to narrow his request as much as possible.

[23] I recommend that the Town remain committed to assisting the Applicant once it receives the Applicant's response to its letter dated June 8, 2016 as described in paragraph [16].

Dated at Regina, in the Province of Saskatchewan, this 23rd day of February, 2017.

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