



REVIEW REPORT 310-2019

Rural Municipality of Blaine Lake No. 434

July 29, 2020

Summary: The Rural Municipality of Blaine Lake No. 434 (the R.M.) received an access to information request for records related to the repayment of the Reeve's health benefits. The R.M. indicated that responsive records did not exist. The Commissioner found that the R.M. conducted a reasonable search for records and recommended that the R.M. take no further action.

I BACKGROUND

- [1] On August 6, 2019, the Rural Municipality of Blaine Lake No. 434 (the R.M.) received an access to information request from two Applicants for “proof of payment by reeve for health benefits enrolled in since [they] started as a reeve”.
- [2] On September 5, 2019, the R.M. replied to the Applicants indicating that the Reeve was sent an invoice for a specific dollar amount for 2019 health benefits. It also indicated that there were no prior invoices or payments for the Reeve's health benefits.
- [3] On October 4, 2019, the Applicants requested a review by my office. Through early resolution efforts by my office, the R.M. issued a second response letter compliant with section 7 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) to the Applicants dated October 9, 2019. The letter indicated that responsive records did not exist pursuant to subsection 7(2)(e) of LA FOIP.

[4] On October 23, 2019, the Applicants requested that my office review the search efforts of the R.M. On October 30, 2019, my office informed the Applicants and the R.M. of my intention to undertake a review.

II RECORDS AT ISSUE

[5] As I am reviewing the search efforts of the R.M., there are no records at issue in this review.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction in this matter?

[6] The R.M. is a local authority pursuant to subsection 2(f)(i) of LA FOIP. Therefore, LA FOIP applies and I have jurisdiction to conduct this review.

2. Did the R.M. conduct a reasonable search for records?

[7] Section 5 of LA FOIP is clear that access to records must be granted if they are in the possession or under the control of the local authority subject to any applicable exemptions under LA FOIP.

[8] In the notification, my office requested that the RM describe its search efforts for the records in its possession or control that are responsive to the Applicants' request.

[9] The threshold that must be met is one of "reasonableness". In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable. LA FOIP does not require the local authority to prove with absolute certainty that records do not exist. However, it must demonstrate that it has conducted a reasonable search to locate them.

[10] A reasonable search is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request.

A reasonable effort is the level of effort you would expect of any fair, sensible person searching areas where records are likely to be stored. What is reasonable depends on the request and related circumstances.

[11] When conducting a review of a local authority's search efforts, details are requested that help my office understand the level of effort made to locate the records. Examples of the type of information that can be provided can be found in my office's *Guide to FOIP, Chapter 3* (updated March 10, 2020) at pages 65 to 69.

[12] The R.M. indicated that the Saskatchewan Association of Rural Municipalities (SARM) provides group insurance to employees and elected officials of rural municipalities. Each rural municipality manages these benefits on their own terms; and generally, a rural municipality will pay for the benefits and then may deduct the cost of the benefits from the elected members' monthly or annual indemnity or issue an invoice for repayment. The R.M. indicated that it does not yet have a policy for council remuneration that would include whether individuals would have to payback health benefits provided by SARM. The R.M. also indicated that it checked the minutes since 2016 and there were no motions relating to these benefits until February 2019. The motion in February 2019, was as follows:

That council members be authorized to opt into the health & dental plan, conditional to council members covering their own cost.

[13] The R.M. also indicated that a motion was passed after the R.M. provided its section 7 response directing the administrator to provide invoices for any past unpaid benefits.

[14] The Applicants allege that a former Administrator of the R.M. told one of the Applicants that the Reeve had not paid for their health benefits. The Applicants said that the former Administrator gave them the total amount that the former Administrator felt the Reeve owed the R.M for health benefits. The Applicants felt that this demonstrated that the Reeve had been invoiced. However, the Applicants also indicated they were not sure about what happened behind the scenes.

- [15] The R.M. provided my office with a submission that described its search. It noted that it began its search by checking the accounts payable and accounts receivable Munisoft software programs. It noted that a search of these two Munisoft programs would indicate if there was a voluntary payment made without an invoice, or if there was an invoice that had or had not been paid by the Reeve.
- [16] The R.M. reported that it had been using the Munisoft program for accounts payable since 2002 and for accounts receivable since 2016. Prior to that, it managed accounts manually and the resulting information was stored in a binder. The binder was also searched for responsive records.
- [17] The RM reported that it searched all of its electronic records created since 2016 using the Reeve's first and last name. It also searched additional physical files such as the property tax file and the Reeve's personnel file.
- [18] Through this search, no records responsive to the Applicants' request were found.
- [19] Finally, the R.M. reported that the Administrator and another employee verbally asked the Reeve if they had ever repaid the R.M. for the health benefits. The R.M. reported that the Reeve responded that they had never been invoiced.
- [20] I am satisfied that the R.M. performed a reasonable search for records and no responsive records exist.

IV FINDING

- [21] I find that the R.M. performed a reasonable search for records.

V RECOMMENDATION

[22] I recommend that the R.M. take no further action.

Dated at Regina, in the Province of Saskatchewan, this 29th day of July, 2020.

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