Date: November 21, 2011 **File No.: 2010/005**

SASKATCHEWAN

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

REPORT LA-2011-004

City of Saskatoon

Summary: The Applicant applied to the City of Saskatoon (City) for certain documents. The City released some responsive records but withheld others citing sections 16(1)(a) and 16(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) as its authority. The City asserted that it had a right to withhold the records in question as they contained advice, proposals, recommendations, analyses or policy options for the City; and consultations or deliberations involving employees of the City. The documents pertain to the Destination Centre Steering Committee and included meeting minutes and e-mails. The City failed to provide sufficient information to meet its burden of proof in establishing that the exemptions in sections 16(1)(a) and 16(1)(b) applied to the records in issue. The Commissioner therefore recommended that the City release the documents.

Statutes Cited: *The Local Authority Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. L-27.1, ss. 16(1)(a), 16(1)(b); *The Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. F-22.01, ss. 16, 17; *The Cities Act*, S.S. 2002, c. C-11.1, ss. 55, 100.

Authorities Cited: Saskatchewan OIPC Reports F-2010-001, F-2006-004, F-2005-006, F-2004-007, F-2004-004, F-2004-002, F-2004-001, LA-2011-003, LA-2011-00, LA-2010-002, LA-2010-001, LA-2007-002, LA-2007-001, LA-2004-001; Alberta OIPC Orders F2008-28, F2008-008, 97-007, Ontario IPC Order PO-2704; British Columbia OIPC Order 02-38; *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815.

Other Sources Cited: Saskatchewan OIPC: *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review, FOIP FOLIO* (August 2005, August 2007, May 2008, November 2008 and January 2011); City of

Saskatoon, Bylaw No. 8198, *The Council and Committee Procedure Bylaw, 2003*.

I BACKGROUND

[1] The Applicant made a request for access on or about December 1, 2009 to the City of Saskatoon (City):

> I wish to submit the attached access request for the following records:
>
> 1) Copies of the minutes to any Destination Centre Steering Committee meetings since its inception; and,
>
> 2) Copies of any reports prepared by the Destination Centre Steering Committee since its inception; and,
>
> 3) Copies of any city administrative reports received by the Destination Centre Steering Committee since its inception; and,
>
> 4) Copies of any correspondence, including attachments, between the City of Saskatoon and [third party A] since September 1, 2009; and,
>
> 5) Copies of any correspondence between the City of Saskatoon and [third party B] since August 1, 2009.
>
> Please limit the scope of #4 and #5 to the City Manager's Office, Mayor's Office, and Special Projects Manager.

[2] The City responded to the Applicant via letter dated December 14, 2009 stating the following:

> Relating to #1 above, attached are copies of the minutes of meetings of the Destination Centre Steering Committee since its inception. The bodies of the minutes have been severed in accordance with Section 16(1)(a) and (b) of *The Local Authority Freedom of Information and Protection of Privacy Act* in that the committee is an administrative, non-decision-making committee and the minutes disclose:
>
> a) advice, proposals, recommendations, analyses or policy options developed for the City; and
>
> b) consultations or deliberations involving officers and employees of the City.

[3] The City also indicated that there was no responsive record in relation to #2, #3 and #5 of the Applicant's request. The City indicated that in regards to #4 of the Applicant's request:

> The following documents which relate to #4 above are enclosed:
>
> - E-mail dated December 2, 2009 from [Manager A], Special Projects Manager.
> - Four E-mails containing threads dated December 3 and 4, 2009, between [Principal, third party A] and [Manager A]. The body of these e-mails is severed in accordance with Section 16(1)(b) of the *Act* as they contain consultations involving an employee of the City.

[4] The Applicant submitted a request for Review to our office on December 22, 2009.

II RECORDS AT ISSUE

[5] The City provided its submission and the Record to our office on January 26, 2010. The Index of Records listed the following:

- Documents A-G – consisted of 7 multi-page documents labeled "pages" A through G by the City. These documents constituted minutes of meetings in which the City cited sections 16(1)(a) and (b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) for each document. The City provided the following explanation for severing portions of these documents:

  > The Destination Centre Steering Committee was established in early 2008 in order to assist civic administration in reaching a recommendation to take to City Council for the preferred concept for the Destination Centre at River Landing. The Committee consists of two members of the public as well as representatives from a range of organizations and bodies in the city. The minutes contain advice, proposals and analyses developed for the City. Moreover the meetings are for the purpose of consultations and deliberations involving employees of the City and the minutes reflect those consultations and deliberations.

- Pages 1-2 – is an e-mail dated December 4, 2009 from [Principal, third party A] to [Engineer in Project Services Section, City of Saskatoon], entitled "Cafeteria Layout". The City cited section 16(1)(b) and provided the following explanation for severing portions of the e-mails:

  > This email consists of questions and suggestions between civic employees and the City's consultant.

- Pages 3-5 and 5a – is an e-mail dated December 4, 2009 from [Manager A] to [Principal, third party A]. The City cited section 16(1)(b) and for page 5a, section 15(1)(b)(ii). The City stated the following explanation for severing portions of these documents:

  > The portions severed contain questions, responses and suggestions between civic employees and the City's consultant. 5a is the agenda for an administrative meeting.

- Pages 6-8 – is an e-mail dated December 4, 2009 from [Manager A] to [Principal, third party A]. The City cited section 16(1)(b) and provided the following explanation for severing the document:

  > The portions severed contain questions, responses and suggestions between civic employees and the City's consultant.

- Pages 9-10 – is an e-mail dated December 3, 2009 from [Principal, third party A] to [Manager A]. The City cited section 16(1)(b) and provided the following explanation for severing the document:

  > The portions severed contain questions, responses and suggestions between civic employees and the City's consultant.

[6] The City advised us by way of letter dated October 12, 2010 that further documents were released to the Applicant, specifically documents C-G. This was confirmed by the Applicant in an e-mail to our office on November 8, 2010. Therefore, these documents are of no further concern.

[7] Before going further with this analysis, I need to address the additional discretionary exemption cited by the City which was not in its section 7 response to the Applicant.

[8] The City introduced section 15(1)(b)(ii) of LA FOIP in its submission but did not raise it in its original section 7 response to the Applicant. Our practice is that we will not normally consider a new discretionary exemption once we commence our review unless the public body/trustee can demonstrate that this will not prejudice that Applicant.[1] The City has not demonstrated this. Therefore, this late discretionary exemption will not be considered. Page 5a should therefore be released in full to the Applicant.

[1]Saskatchewan Information and Privacy Commissioner (hereinafter SK OIPC) Reports F-2004-007 at [16], F-2005-006 at [6], F-2006-004 at [18], LA-2007-002 at [16] and [22] and LA-2011-003 at [17]. SK OIPC *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review* (hereinafter *Helpful Tips*) states at p. 8: "Our practice is that we will not normally consider a new discretionary exemption once we commence our review unless the public body/trustee can demonstrate that this will not prejudice the applicant." All available at www.oipc.sk.ca.

[9] It should be noted that there was an additional document labeled 'H' received as part of the City's submission and record but which was not listed in the Index of Records. The document appears to be minutes from the same Steering Committee dated March 28, 2008 and appears to be responsive to the Applicant's access request. There is no exemption cited for this document and it should therefore be released to the Applicant.

[10] Upon review of the City's submission and record, I found that our office was only provided with pages 1, 3 and 4 of document A. Page 2 is missing from the document. The City has not explained why it has failed to provide this page.

III ISSUES

1. Did the City properly apply section 16(1)(a) of *The Local Authority Freedom of Information and Protection of Privacy Act* to the withheld record in question?

2. Did the City properly apply section 16(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* to the withheld record in question?

IV DISCUSSION OF THE ISSUES

1. Did the City properly apply section 16(1)(a) of *The Local Authority Freedom of Information and Protection of Privacy Act* to the withheld record in question?

[11] This exemption of LA FOIP reads as follows:

> **16**(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:
>
> (a) advice, proposals, recommendations, analyses or policy options developed by or for the local authority[2]

[2] *The Local Authority Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. L-27.1, (hereinafter LA FOIP) s. 16(1)(a).

[12] This section was cited by the City on documents A and B. The City stated on the Index of Records received at this office on January 26, 2010 the following explanation for citing the exemption:

> The Destination Centre Steering Committee was established in early 2008 in order to assist civic administration in reaching a recommendation to take to City Council for the preferred concept for the Destination Centre at River Landing. The Committee consists of two members of the public as well as representatives from a range of organizations and bodies in the city. The minutes contain advice, proposals and analyses developed for the City.

[13] I will first examine what constitutes advice, proposals or analyses. It is not necessary to focus on recommendations or policy options which are contained in this section because the City has not indicated these documents consist of either in its Index of Records or in its submission.

[14] The City indicated to the Applicant in its section 7 response letter dated December 14, 2009, that it had severed the body of the minutes. In the copy of the Record that the City provided to our office it is not clear what sections were severed and what was released. I will address the documents in their entirety. However, I would draw the attention of the City to our *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review*.[3] When local authorities fail to provide all of the required information, it contributes to delays in the review process.

[15] Both documents A and B are labeled 'minutes' and are from meetings held in the City Manager's Boardroom in April 2009.

[16] In my Report LA-2007-001, I considered section 16(1)(a) of LA FOIP. The following points from that Report are relevant and helpful to this analysis:

> [54] In the Royal Commission discussion of 'advice and recommendations', the following appears:
>
> > *The need for confidentiality pertaining to various aspects of decision-making processes is not restricted to decisions at the Cabinet level. An absolute rule*

[3]SK OIPC, *Helpful Tips*, at p. 6, available at www.oipc.sk.ca/resources.htm.

> *permitting public access to all documents relating to policy formulation and decision-making processes in the various ministries and other institutions of the government would impair the ability of public institutions to discharge their responsibilities in a manner consistent with the public interest.* ***On the other hand, were a freedom of information law to exempt from public access all such materials, it is obvious that the basic objectives of the freedom of information scheme would remain largely unaccomplished. There are very few records maintained by governmental institution that cannot be said to pertain in some way to a policy formulation or decision-making process.***
>
> *Although the precise formula for achieving a desirable level of access for deliberative materials has been a contentious issue in many jurisdictions in which freedom of information laws have been adopted or proposed, there is broad general agreement on two points.* ***First, it is accepted that some exemption must be made for documents or portions of documents containing advice or recommendations prepared for the purpose of participation in decision-making processes.*** *Second, there is a general agreement that documents or parts of documents containing essentially factual material should be made available to the public. If a freedom of information law is to have the effect of increasing the accountability of public institutions to the electorate, it is essential that the information underlying decisions taken as well as the information about the operation of government programs must be accessible to the public. We are in general agreement with both of these propositions*.[4]
>
> [emphasis added]

[17] Also in my Report LA-2007-001, I referred to the Culliton Report:

> [55] In the Culliton Report, the following recommendation is stated:
>
> *The legislation also should recognize the anonymity of public servants by providing that access shall not be granted to records which:*
>
> *(a) would disclose legal opinions or advice provided to a person or government institution by a law officer of the Crown or privileged information between solicitor and client in a matter of government institution business;*
>
> ***(b) would disclose opinions or recommendations by public servants for a member of the executive council or for the executive council;***
>
> *(c) would disclose the substance of proposed legislation or regulations; and*

[4]SK OIPC Report LA-2007-001 at [54], available at www.oipc.sk.ca/reviews.htm.

(d) would disclose information received on a confidential basis.[5]

[emphasis added]

[18] In order for section 16(1)(a) to apply, there needs to be an opinion expressed involving an exercise of judgment, and/or weighing of the significance of the facts. Simply stating factual information is not included under this exemption.

[19] Further, in my Report LA-2007-001, the following is stated:

> [81] The Ontario Ministry of Northern Development and Mines had refused to release records of project evaluation reports notwithstanding two orders of the Ontario Commissioner to release them. The Ministry asserted that the reports constituted advice or recommendations within the scope of a statutory exemption from disclosure. The Commissioner, on appeal from the Ministry, held that the parts of the records did not constitute advice or recommendations, nor would their disclosure allow one to accurately infer any such advice or recommendations. For that reason, they did not qualify for exemption from disclosure. The Ministry then initiated a judicial review of the Commissioner's order by arguing that the Commissioner erred in interpretation of advice and recommendations by narrowing the definition to the extent that the interpretation was tautological. The Ontario Court dismissed the application and upheld the Commissioner's orders.
>
> [82] The Court considered the Weidlich decision as follows:
>
> > *57 The Ministry finds support for their position in Weidlich* v. *Saskatchewan Power Corp., [1998] S.J. No. 133 (Q.B.) at paras. 9-12 and 22 where the court exempted from disclosure reports summarizing the opinions of focus group participants on a variety of issues, including rate structures, that could reasonably be expected to disclose analyses and policy options developed for SaskPower. The court accepted that the right of access should be the paramount consideration under access legislation generally, but there are exceptions put in place by the legislature, which must be given effect.*
> >
> > *58 I find that Weidlich is of little assistance, because the provision at issue was differently worded than section 13. It exempted "advice, proposals, recommendations, analyses or policy options [emphasis added] developed by or for a government institution…". The court held that the reports could not logically be categorized as being other than advice and analyses.* ***The suggestion in Weidlich that advice in commercial usage may signify information or intelligence appears to be incompatible with a freedom of information regime for government record holdings.***

[5] *Ibid.* at [55].

[emphasis in original]

...

60 It is asserted by the Ministry that one of the purposes of the exemption for advice or recommendations is to encourage the free and frank flow of communications within government departments, in order to ensure that the decision-making process is not subject to the kind of intense scrutiny that would undermine the ability of government to discharge its essential functions. See Canadian Council of Christian Charities v. *Canada (Minister of Finance) (T.D.), [1999] 4 F.C. 245 (Christian Charities) at paras. 30, 32. The Ministry's position is that the Commissioner's interpretation of section 13(1) hampers this goal.*

61 I note that in Christian Charities, the court states at para. 32:

> *On the other hand, of course, democratic principles require that the public, and this often means the representatives of sectional interests, are able to participate as widely as possible in influencing policy development. Without a degree of openness on the part of government about their thinking on public policy issues, and without access to relevant information in the possession of government, the effectiveness of public participation will inevitably be curbed.*

62 In my view, ***the Ministry seeks to ascribe to the word "advice" an overly broad meaning tending to eviscerate the fundamental purpose of the statute to provide a right of access to information under the control of institutions, in accordance with the principles that information should be available to the public and exemptions from the right of access should be limited and specific*** *(s. 1(a)(i), (ii) of the Act).*

[emphasis in original]

63 Section 13(2) of the Act lists various types of information, such as factual material, statistical surveys and certain reports, which are not to be protected under section 13(1). They are not intended, as the Ministry would suggest, to limit what would otherwise have been a very broad interpretation of the exemption at section 13(1).

64 The Ministry submits that the Commissioner has interpreted the words "advice" and "recommendations" to have the same meaning. I disagree with their position. The Commissioner states that the words have similar meanings in the context of section 13(1) of the Act and should be interpreted to mean information that reveals a suggested course of action that will ultimately be accepted or rejected by its recipient during the deliberative process of government policy and decision-making. Moreover, in Fineberg, this court has endorsed as reasonable the interpretation adopted by the Commissioner.

...

[83] In addition, I note the Ontario Court of Appeal also considered section 18 in the Ontario FOIP Act in *Ministry of Transportation* v. *Cropley.* The Court of Appeal observed that at the outset of the Ontario Commissioner's Order, she stated as follows:

> *...advice and recommendations, for the purposes of section 13(1) must contain more than mere information. To qualify as "advice" or "recommendations", the information contained in the records must relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process (Orders P-94, P-118, P-883 and PO-1894). Information that would permit the drawing of accurate inferences as to the nature of the actual advice and recommendation given also qualifies for exemption under section 13(1) of the Act (Orders P-1054, P-1619 and MO-1264).*

[84] The Court of Appeal added:

> *[21] The Ministry submits that this definition is too narrow. The Ministry submits that the ordinary meaning of "advice" does not require a deliberative process and would include information or analyses conveyed without a view to influencing a decision or the adoption of a course of action. In the Ministry's view, the Commissioner's interpretation offends the rule against tautology, which dictates that "advice" must be given a meaning separate and independent from "recommendations". Furthermore, the Ministry submits the Commissioner erred in invoking Public Government for Private People: The Report of The Commission on Freedom of Information and Individual Privacy 1980, vol. 2 (Toronto: Queen's Printer, 1980) (the "Williams Commission Report") as an aid of interpretation because the meaning of "advice" is unambiguous, and the exemption as enacted differs from the wording that the Williams Commission Report proposed.*

[85] The Court of Appeal concluded in that case that:

> *[28] In my view, the meaning of "advice" urged by the Ministry would not be consonant with this statement of purpose. The public's right to information would be severely diminished because much communication within government institutions would fall within the broad meaning of "advice", and s. 13(1) would not be a limited and specific exemption. I conclude, in the words of the Divisional Court that "the Commissioner's interpretation complies with the legislative text, promotes the legislative purpose and is reasonable.*

[86] Of particular importance, I note that on April 3, 2006 the Supreme Court of Canada refused leave to appeal from the decision in *Ministry of Transportation* v. *Laurel Cropley, Adjudicator, Consulting Engineers of Ontario, Affected Party*.

[87] I find that the Ontario Court of Appeal in the above noted decision accurately addressed the purpose of freedom of information legislation. This is consistent with the statement of our Court of Appeal in *General Motors Acceptance Corp. of Canada* v. *Saskatchewan Government Insurance* as follows:

> *11 The* [Freedom of Information and Protection of Privacy Act]*'s basic purpose reflects a general philosophy of full disclosure unless information is exempted under clearly delineated statutory language. There are specific exemptions from disclosure set forth in the Act, but these limited exemptions do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act. That is not to say that statutory exemptions are of little or no significance. We recognize that they are intended to have a meaningful reach and application. The Act provides for specific exemptions to take care of potential abuses. There are legitimate privacy interests that could be harmed by release of certain types of information. Accordingly, specific exemptions have been delineated to achieve a workable balance between the competing interests. The Act's broad provisions for disclosure, coupled with specific exemptions, prescribe the "balance" struck between an individual's right to privacy and the basic policy of opening agency records and action to public scrutiny.*

[88] I find that these comments apply also to the Act.

(g) Summary of Analysis of Section 16(1)(a) of the Act

[89] The analysis of section 17 of FOIP by Geatros J. in Weidlich and his description of "*advice*" as "*primarily the expression of counsel or opinion, favourable or unfavourable, as to action…*" is perfectly consistent with the ascribed purpose of FOIP and the Act, and with the decisions of the Ontario Court of Appeal noted earlier. With all due respect, I find that the quote he used from a 1950 Supreme Court of Canada decision and the phrase, "…*but it may, chiefly in commercial usage, signify information or intelligence*" did not form an essential element of his decision.

[90] In addition, I rely on major developments since Weidlich that have refined the interpretation of "advice" in the context of a freedom of information and protection of privacy statute. This includes the April 3, 2006 decision of the Supreme Court of Canada to refuse leave to appeal from the Ontario Court of Appeal decision in *Ministry of Transportation* v. *Cropley*. I further find that, at this time, to best achieve the objectives of the Act and to ensure that the right of access is not unduly diminished by assigning an extremely broad meaning to the word "advice", I should construe "advice" in a way that is consistent with the Ontario Court of Appeal decisions noted above. I am further guided by a body of Supreme Court of Canada and Federal Court of Appeal decisions that highlight the limited and specific nature of exemptions generally. To interpret section 16 of the Act to allow non-disclosure by a local authority of records that contain "information or intelligence" would cast such a large blanket of secrecy over all kinds of information that public bodies routinely collect that it would seriously compromise transparency to the people of Saskatchewan.

[91] In this Report I have not addressed in any significant way the words "*…proposals, recommendations, analyses or policy options*" in section 16(1)(a) of the Act. I take the view that each of these words also require more than mere information. **To qualify for purposes of section 16(1)(a), the information in the records must**

> **relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process.** Furthermore, information that would permit the drawing of accurate inferences as to the nature of the actual proposals, recommendations, analyses or policy options would also qualify for the exemption in section 16(1)(a) of the Act. [6]
>
> [emphasis added]

[20] In Alberta Information and Privacy Commissioner (IPC) Order 97-007 criteria for advice were set out:

> The "advice" should be:
>
> 1) sought or expected, or part of the responsibility of a person by virtue of that person's position,
>
> 2) directed towards taking an action, and
>
> 3) made to someone who can take or implement the action.[7]

[21] To determine if the information constitutes advice, proposals or analyses, it is necessary to establish what the terms mean.

[22] In my Report LA-2010-001, I stated:

> [28] I found definitions for the terms "advice, proposals, recommendations, analyses or policy options" also in the above noted Alberta resource, FOIP Guidelines, as follows:
>
> *Advice* includes the analysis of a situation or issue that may require action and the presentation of options for future action, but not the presentation of facts.
>
> *Recommendations* include suggestions for a course of action as well as the rationale for a suggested course of action.
>
> *Proposals* and *analyses or policy options* are closely related to advice and recommendations and refer to the concise setting out of the advantages and disadvantages of particular courses of action.[8]

[6] *Ibid.* at [81] to [91].
[7] Alberta Information and Privacy Commissioner (hereinafter AB OIPC) Order 97-007 at [35], available at www.oipc.ab.ca/pages/OIP/Orders.aspx.
[8] SK OIPC Report LA-2010-001 at [28], available at www.oipc.sk.ca/reviews.htm.

[23] In Ontario IPC Order PO-2704, the following is relevant:

> **ADVICE TO GOVERNMENT**
>
> The Ministry has taken the position that the exemption in section 13(1) of the *Act* applies to Records LSB-17, LSB-70, KMRB-12, KMRB-13 and KMRB-17, in whole or in part.
>
> Section 13(1) states:
>
> > A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.
>
> **The purpose of section 13 is to ensure that persons employed in the public service are able to freely and frankly advise and make recommendations within the deliberative process of government decision-making and policy-making.** The exemption also seeks to preserve the decision maker or policy maker's ability to take actions and make decisions without unfair pressure [Orders 24, P-1398, upheld on judicial review in *Ontario (Minister of Finance) v. Ontario (Information and Privacy Commissioner)* (1999), 118 O.A.C. 108 (C.A.)].
>
> "Advice" and "recommendations" have a similar meaning. In order to qualify as "advice or recommendations", **the information in the record must suggest a course of action that will ultimately be accepted or rejected by the person being advised.**
>
> Advice or recommendations may be revealed in two ways:
>
> - the information itself consists of advice or recommendations
> - the information, if disclosed, would permit one to accurately infer the advice or recommendations given
>
> Examples of the types of information that have been found **not** to qualify as advice or recommendations include:
>
> - analytical information
> - evaluative information
> - notifications or cautions
> - views
> - draft documents
> - a supervisor's direction to staff on how to conduct an investigation[9]
>
> [emphasis added]

[9]Ontario Information and Privacy Commissioner Order PO-2704 at p. 14, available at www.ipc.on.ca.

[24] In British Columbia IPC Order 02-38, the following is relevant:

> [111] In Order 00-08, [2000] B.C.I.P.C.D. No. 8, in the passage quoted above in Order 01-15, I said **"'advice' usually involves a communication, by an individual whose advice has been sought to the recipient of the advice, as to which courses of action are preferred or desirable"** (at p. 38 of Order 00-08). It is clear from the public bodies' submissions that they believe a broader interpretation of the word "advice" is warranted than they interpret the preceding passage as suggesting. My findings on s. 13(1) in Order 00-08 were upheld on judicial review in *College of Physicians and Surgeons of British Columbia* v. *British Columbia (Information and Privacy Commissioner)*, [2001] B.C.J. No. 1030 (S.C.) (an appeal by the petitioner to the Court of Appeal has not been heard at the time of writing). **Owen-Flood J. agreed that the word "advice" means "words offered as opinion or recommendation about future action."**
>
> …
>
> [125] I also hesitate to adopt the approach in Order P-398, which the applicant urges on me, as mentioned above. It seems to me that, **even if no recommendation is explicitly offered as to which option to adopt, the communication to a decision-maker of options and their implications ordinarily carries with it the implicit recommendation that one of the options should be adopted.** It is implicit that all the options are possible courses of action, although the choice of options is in the discretion of the decision-maker. It seems to me that such a record conveys, at the very least, "recommendations". The record in issue in Order 01-17, [2001] B.C.I.P.C.D. No. 18, did not, it should be said, fall into this class of record.[10]
>
> [emphasis added]

[25] Upon review of the Record, documents A and B [minutes] appear to contain facts, opinions, suggestions and feedback rather than advice, proposals and analyses as defined above.

[26] In my Report F-2004-004, I stated the following with regards to what would appropriately fall within the scope of the equivalent section in *The Freedom of Information and Protection of Privacy Act* (FOIP):

> [13] The major difference between records described in section 16 and those in section 17 is the purpose for which they were prepared. Memos and briefs and other forms of records prepared for the purpose of presenting recommendations or proposals to Cabinet fall within section 16. **Records prepared for or by a**

[10]British Columbia Information and Privacy Commissioner Order 02-38 at [111] and [125], available at www.oipc.bc.ca.

> **government institution for consideration by the Minister** but which are not records prepared for consideration by the Cabinet fall within section 17.[11]
>
> [emphasis added]

[27] In my recent Report, F-2010-001, I looked at Alberta Order F2008-008 which considered its equivalent provision, as it specifically relates to the wording "by or for". The following paragraphs out of the Alberta decision summarize the resulting principle:

> [para 42] In my view, for information to be developed by or on behalf of a public body under section 24(1)(a) of the Act, **the person developing the information should be an official, officer or employee of the public body, be contracted to perform services, be specifically engaged in an advisory role (even if not paid), or otherwise have a sufficient connection to the public body. I do not believe that general feedback or input from stakeholders or members of the public normally meets the first requirement of the test under section 24(1)(a), as the stakeholders or members of the public do not provide the information by virtue of any advisory "position". This is even if the public body has sought or expected the information from them.**
>
> [para 43] To put the point another way, the position of the party providing information under section 24(1)(a) – or the relationship between that party and the public body – **should be such that the public body has specifically sought or expected, or it is the responsibility of the informing party to provide, more than merely thoughts, views, comments or opinions on a topic**. General stakeholders and members of the public responding to a survey or poll are not engaged by the public body in a sufficient advisory role. They have simply been asked to provide their own comments, and have developed nothing on behalf of the public body.[12]
>
> [emphasis added]

[28] Looking further, Alberta IPC's Order F2008-008 states the following:

> [para 44] I distinguish the foregoing, however, from situations where a public body might ask a specific stakeholder – who has a particular knowledge, expertise or interest in relation to a topic – to provide advice, proposals, recommendations, analyses or policy options for it, thereby engaging the stakeholder to develop information "on behalf of" the public body. In other words, I do not preclude the possibility of a stakeholder providing advice, etc. by virtue of its position, and therefore within the meaning of section 24(1)(a) of the Act. In such a case, the stakeholder (again, even if not paid) would be specifically engaged in an advisory

[11] SK OIPC Report F-2004-004 at [13], available at www.oipc.sk.ca/reviews.htm.
[12] SK OIPC Report F-2010-001 at [81], available at www.oipc.sk.ca/reviews.htm.

> role and therefore have a sufficiently close connection to the public body. This may be what occurred in the context of the inquiries that gave rise to some of the previous orders of this Office, which are discussed above.[13]

[29] In the City's section 7 response to the Applicant on December 14, 2009, the City refers to the Steering Committee as: "an administrative, non-decision-making committee…"

[30] From this statement, it would appear that the committee does not participate in the decision-making process.

[31] In my Report LA-2010-001, I addressed the issue of 'advisory role' with the City and reproduced the same Alberta IPC Order as in my Report F-2010-001:

> [29] When considering whether or not section 16(1)(a) of LA FOIP applies, it must first be demonstrated that whatever advice is offered is developed "by or for the local authority."
>
> [30] I have not previously offered a clear interpretation of "by or for". The Alberta IPC did however in its Order F2008-008. The relevant portions are reproduced as follows:
>
> > [para 14] The provisions of section 24 of the Act that are relevant to this inquiry are as follows:
> >
> > *24(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to reveal:*
> >
> > *(a)* ***advice, proposals, recommendations, analyses or policy options developed by or for a public body*** *or a member of the Executive Council,*
> >
> > *(b) consultations or deliberations involving:*
> >
> > *(i) officers or employees of a public body,*
> >
> > …
> >
> > [para 41] Under other sections of the Act, it has been concluded that, for a record to be created "by or for" a person, the record must be created "by or on behalf" of that person [Order 97-007 at para. 15, discussing what is now section 4(1)(q); Order 2000-003 at para. 66, discussing what is now section 4(1)(j)]. I adopt the same conclusion in respect of section 24(1)(a). I further note that section 24(1)(c)

[13] AB OIPC Order F2008-008 at [44], available at www.oipc.ab.ca.

> refers to information developed "by or on behalf" of a public body. While I acknowledge that different wording is used in subsections 24(1)(a) and (c), I believe that the intent behind both subsections is to allow a public body to withhold information developed by or on behalf of it. **In other words, I equate "by or for" in subsection 24(1)(a) with "by or on behalf" in subsection 24(1)(c). As a result, it is not sufficient under section 24(1)(a) for an organization or individual to simply have provided information *to* a public body.**
>
> [para 42] **In my view, for information to be developed by or on behalf of a public body under section 24(1)(a) of the Act, the person developing the information should be an official, officer or employee of the public body, be contracted to perform services, be specifically engaged in an advisory role (even if not paid), or otherwise have a sufficient connection to the public body. I do not believe that general feedback or input from stakeholders or members of the public normally meets the first requirement of the test under section 24(1)(a), as the stakeholders or members of the public do not provide the information by virtue of any advisory "position". This is even if the public body has sought or expected the information from them.**
>
> [emphasis in original]

[31] For purposes of this analysis, I adopt the above noted definitions of "by or for". In this regard, I need to examine the role of each individual involved in the discussions/correspondence comprising the record (i.e. e-mails, attachments, etc) before being able to make a determination with respect to whether or not the exemption may apply.

[32] The City provided some basic information as to its affiliation with most of the individuals named in the record as follows:

- Consultant hired by City, CitySpaces, Victoria BC
- Civic Employees:
  - City Manager
  - City Solicitor
  - Special Projects Manager
  - Manager, City Planning Branch
  - Senior Planner, City Planning Branch
  - Urban Design Coordinator, City of Saskatoon
- Chief Executive Officer (CEO) of Meewasin Valley Authority (MVA)
- Member of MVA
- Two Architects hired by the City

> [33] **Not all of the above individuals appear to qualify as employees or officials of the local authority (i.e. the Member of or CEO of MVA12), nor is the relationship with the City clear as the City did not provide any representation respecting same.** I also note that the record contains commentary unattributed to any particular person(s) [comments from unidentifiable individuals attending a community meeting (i.e. pages 72-74)]. In those cases, I am unable to conclude that any advice, in its various forms, was offered "by or for the local authority".[14]
>
> [emphasis added]

[32] The City indicates that the minutes are from a Steering Committee consisting of two members of the public and representatives from a range of organizations and bodies.

[33] The minutes include a list of who was present at the meeting and the organization they belong to. The City did not provide any details in its submission regarding the role of each of the individuals involved. On the face of documents A and B, they contain largely facts, opinions and general feedback from stakeholders.

[34] The City's Index of Record included with cover letter dated January 22, 2010, stated:

> The Destination Centre Steering Committee was established in early 2008 in order to assist civic administration in reaching a recommendation to take to City Council for the preferred concept for the Destination Centre at River Landing. The Committee consists of two members of the public as well as representatives from a range of organizations and bodies in the city.

[35] In Alberta IPC Order F2008-028, the following is relevant:

> [para 198] Pages 675-684 consist of background information about Bill 27, or a summary and analysis of it, by particular associations or organizations. Pages 711-719 consist of a summary of legislative proposals by another organization. I considered whether the information on these pages fell under section 24(1)(a) and/or (b) on the basis that these groups are stakeholders with a particular knowledge, expertise or interest in relation to the topic, and were specifically engaged to develop advice, proposals, recommendations, analyses or policy options on behalf of the Public Body (Order F2008-008 at para. 44). While these groups may have a particular expertise or interest, **I have no evidence, on the face of these records, that the groups were specifically engaged by the Public Body in an advisory role. I therefore do not find that the information was specifically sought or expected**

[14] *Supra* note 8 at [29] to [33].

> **from them by virtue of their positions, or even sought or expected at all.** As the Public Body has not established that the information on pages 675-684 and 711-719 falls under section 24(1), I intend to order disclosure of these pages (with the exception of the name that I found to be subject to section 17 on page 683).[15]
>
> [emphasis added]

[36] According to *The Cities Act* of Saskatchewan, section 55 states:

> **55** A council may:
>
> (a) establish council committees and other bodies and define their functions; and
>
> (b) establish:
>
> (i) the procedure and conduct of council, council committees and other bodies established by the council; and
>
> (ii) rules for the conduct of councillors, of members of council committees and of members of other bodies established by council.[16]

[37] Section 100 of *The Cities Act* states:

> **100**(1) In this section, **"committee"** means a council committee or other body established by a council pursuant to section 55.
>
> (2) A council may delegate any of its powers or duties to an employee, agent or committee appointed by it, except those powers or duties set out in section 101.
>
> (3) When delegating a matter to an employee, agent or committee appointed by it, the council may authorize the employee, agent or committee to further delegate the matter.[17]

[38] There may be a case made that a 'committee' or 'other body' formed under section 55 and delegated particular powers or duties by City Council could be considered to be in a position of an 'advisory role', be 'specifically engaged' or 'a sufficient connection' to the local authority within the contemplation of section 16(1)(a). However, the City would have to provide sufficient evidence that the Steering Committee in this case was created in accordance with section 55 of *The Cities Act*. However, in this case, the City had

[15] AB OIPC Order F2008-028 at [198], available at www.oipc.ab.ca.
[16] *The Cities Act*, SS. 2002, c. C-11.1, s. 55.
[17] *Ibid.* s. 100.

indicated to the Applicant (as noted earlier) that the committee was an "administrative, non-decision-making committee…" which suggests that it may not have been formed under section 55 or delegated any particular powers or duties on behalf of the local authority.

[39] Further, I reviewed the City's Bylaw No. 8198, *The Council and Committee Procedure Bylaw, 2003*[18]. Part III of the Bylaw lists standing committees established by the City. It should be noted that the Destination Centre Steering Committee is not listed in Part III.

[40] The City's submission did not provide any details regarding how the approximate 13 individuals listed in the minutes constituted an 'advisory role to the local authority'. Had the City provided some cogent evidence in terms of the Committee's mandate, reporting structure and terms of reference, I may have found that the City appropriately applied this exemption. However, for me to conclude simply on the basis of the bare statement made by the City in its submission (at [34]) violates the scheme of LA FOIP.

[41] Therefore, I find that documents A and B do not qualify for exemption under section 16(1)(a). However, the City has also cited section 16(1)(b) on these documents and the other remaining documents which comprise the Record. Therefore, they will now be considered under section 16(1)(b).

2. Did the City properly apply section 16(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* to the withheld record in question?

[42] This exemption reads as follows:

> **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 the local authority[19]

[18]City of Saskatoon, Bylaw No. 8198, *The Council and Committee Procedure Bylaw, 2003* at p. 20.
[19]LA FOIP, s. 16(1)(b).

[43] This section was cited by the City in the Index of Records sent under cover letter dated January 22, 2010 on all of the records. The City stated the following explanation for citing the exemption:

- For documents A and B:

  The Destination Centre Steering Committee was established in early 2008 in order to assist civic administration in reaching a recommendation to take to City Council for the preferred concept for the Destination Centre at River Landing. The Committee consists of two members of the public as well as representatives from a range of organizations and bodies in the city. The minutes contain advice, proposals and analyses developed for the City. **Moreover the meetings are for the purpose of consultations and deliberations involving employees of the City and the minutes reflect those consultations and deliberations.**

  [emphasis added]

- For pages 1-10 which are e-mails:

  The portions severed contain questions, responses and suggestions between civic employees and the City's consultant.

[44] I considered the equivalent discretionary exemption in FOIP (section 17(1)(b)) in my Report F-2006-004. I defined what constitutes consultations and deliberations:

> [30] The Commission applied section 17(1)(b) of the Act to 71 documents. To determine if the exemption applies to any of these records or parts thereof, firstly, I need to revisit the criteria for determining what constitutes "consultations" or "deliberations" under this provision.
>
> [31] In our Report F-2004-001, I determined that,
>
> > [12] ***A "consultation" occurs when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action.*** *(Alberta Order F2003-016 [20])* ***A "deliberation" is a discussion of the reasons for and against an action by the persons described in this section.*** *(Alberta Order 2001-010 [32]) …*
> >
> > [13] *In order to justify withholding a record on a basis of section 17(1)(b)(i), the opinions solicited during a "consultation" or "deliberation" must:*
> >
> > *a) either be sought or expected, or be part of the responsibility of the person from whom they are sought;*

> *b) be sought for the purpose of doing something, such as taking an action or making a decision; and*
> *c) involve someone who can take or implement the action. (Alberta Orders 96-006 [p.10], 99-013[48]).*[20]
>
> [emphasis added]

[45] In my Report F-2004-002, types of documents that would and would not qualify for the equivalent exemption in FOIP (17(1)(b)) were described:

> [10] **A "consultation" occurs when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action.** (Report 2004-001 [12]) A "deliberation" is a discussion of the reasons for and against an action by the persons described in this section. (Report 2004-001 [12]) The records withheld involve either consultation and deliberation.[21]
>
> [emphasis added]

[46] In my Report F-2006-004, I stated the following:

> [33] For insight into the applicability of section 17(1)(b) of the Saskatchewan Act, Alberta IPC Order F2004-026 is useful as it considers a similar provision in its FOIP legislation. In this Order, the Commissioner elaborated on the scope of the exception in section 24(1) of its legislation as follows:
>
> > *[para 76] …Where a person consults or is consulted on a given subject as a function of their office, and the application of section 24 is claimed on the basis that they are* ***officers or employees of a public body, the very fact they participated in the consultation cannot, in my view, be withheld under section 24 unless this fact also reveals the substance of the consultation****. …*
> >
> > ...
> >
> > *[para 78] In defining the scope of the exceptions in sections 24(1)(a) and 24(1)(b), I have in mind that these exceptions are broader than those in parallel provisions in some other jurisdictions. The legislation in Ontario and British Columbia, for example, excepts only "advice and recommendations". In Alberta,"advice, proposals, recommendations, analyses or policy options" are all excepted, as well as "consultations or deliberations".* ***Thus, in my view, the exceptions in section 24(1)(b) embrace the substantive parts of communications that seek an opinion as to the appropriateness of particular proposals respecting***

[20]SK OIPC Report F-2006-004 at [30] to [31], available at www.oipc.sk.ca/reviews.htm.
[21]SK OIPC Report F-2004-002 at [10], available at www.oipc.sk.ca/reviews.htm.

> ***a course of action to be decided, including any background materials that inform the advisors about the matters relative to which advice is being sought, and are thus inextricably interwoven with the questions being asked ("consultations"). … In my view, "deliberations" also includes comments that indicate or reveal reliance on the knowledge or opinions of particular persons, including those of the person making the communication***.* [The footnote here is also of relevance. It reads as follows: "**Withholding of such information is permitted under the legislation, even though no specific content about the topic in issue (in this case, the Bill) is revealed, because such information falls within the policy rationale that persons must be able to freely express the reasons why they are choosing a particular course – in this situation, that they are or are not relying on their own expertise or opinions or those of someone else. Statements of this kind have a substantive element, and could conceivably be inhibited if they were subject to disclosure."*]
>
> …
>
> *[para 81]* ***I am also strengthened in my view that the names of authors or correspondents, dates, and subject lines are not excepted from disclosure under section 24 of the Act by a number of court decisions and decisions of Offices of the Information and Privacy Commissioners in other jurisdictions.***
>
> …
>
> *[para 87] …However, these wider* ***exceptions do not encompass non-substantive material which merely indicates that someone gave advice or had a discussion, without revealing some substantive element of the advice or substance of the discussion***.
>
> [34] Even as I have not yet determined which of the 71 pages are releasable, I find that heading information such as subject lines and "to" and "from" lines of internal email communications of Commission employees or similar details contained on fax cover sheets are releasable…for the reasons cited above at paragraph [81].[22]
>
> [emphasis in original]

[47] In my Report LA-2011-001, I stated:

> [73] In addition, in my Report F-2006-004, the following conclusions were made:
>
> - **E-mail heading information**, such as subject lines, to and from, are **not** caught by the exemption.
> - The exemption not only captures substantive parts regarding proposals, but also **parts that reveal the individual's reliance on other facts.**

[22] *Supra* note 20 at [33] to [34].

- The exemption does **not** capture **records of interaction between parties** or records of action taken by staff or **instructions to staff** on how to proceed.

[emphasis in original]

> [74] For this exemption, I again reviewed the record page by page to determine, if on the face of the record, the criteria set out above exist. **In several cases the document involved communication from outside entities and thus does not meet the requirement clearly set out in the section that officers or employees of the local authority must be involved.** In addition, in some cases purely factual information is being conveyed or there is communication of a decision made or the forwarding of a final draft of a document. In such cases, there are no consultations or deliberations and the exemption does not apply. However, many documents do demonstrate the "clearest of circumstances" for the application of this exemption. [23]
>
> [emphasis added]

[48] It should be noted that the City did release the e-mail heading information and subject lines. This is a positive step on the part of the City.

[49] The City appears to have exercised its discretion as it chose to sever portions of the documents contained in the Record as indicated in its section 7 response to the Applicant. The City also released additional documents to the Applicant after its section 7 response was already provided to the Applicant.

[50] The City cited 16(1)(b) for all the documents in the Record which constitutes meeting minutes from a steering committee involving multiple non-local authority individuals and e-mails between three parties – City officials, a contracted third party and the CEO of an Art Gallery.

[51] It should be noted that the City provided the names and job titles of five individuals involved in the e-mail exchanges on pages 1-10, however it was not clear what their roles were exactly and nothing further was provided by the City in this regard.

[52] I find that the e-mails and meeting minutes do not meet the criteria established. The main reason for this is that e-mail exchanges and the meeting minutes involve multiple

[23] SK OIPC Report LA-2011-001 at [73] and [74], available at www.oipc.sk.ca/reviews.htm.

stakeholders and do not qualify under this exemption. To qualify, the e-mails and documents **must** be between internal officers or employees of the local authority exclusively **and** contain information that would constitute consultations and deliberations.

[53] The City has again not met the burden of proof. Therefore, it is recommended that the severed portions of the Record be released to the Applicant as they do not qualify under this section.

[54] Although I am recommending that documents A and B be released, they contain the names of two "citizens-at-large" from the community. The City has not cited section 28(1) on these documents. I have been provided insufficient evidence as to whether these elements would even constitute personal information. This would be a matter the City would need to address.

V RECOMMENDATIONS

[55] In the circumstances, I find that the City has not met the burden of proof and I recommend release of the record in question subject to severing any personal information that may exist.

Dated at Regina, in the Province of Saskatchewan, this 21st day of November, 2011.

R. GARY DICKSON, Q.C.
Saskatchewan Information and Privacy Commissioner

POSTSCRIPT

From time to time our office has appended a Postscript to a Review Report or Investigation Report. Our practice is to do this when we are concerned about systemic issues of non-compliance with Saskatchewan access and privacy laws. Our objective in doing so is to highlight areas that warrant attention by public bodies and hopefully stimulate remedial action.

Our office has now issued eight formal Review or Investigation Reports under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) in which the local authority was the City of Saskatoon (City). This is unusual since the vast majority of requests for review and privacy complaints are resolved through mediation or informal consultation with the local authority. It is only when a matter cannot be resolved informally that we are required to issue a formal Report. This certainly begs the question - why does such a large proportion of this office's Reports involve Saskatchewan's largest city?

Common to most of these Reports is a failure by the City to meet the burden of proof prescribed by section 51:

> 51 In any proceeding pursuant to this Act, the burden of establishing that access to the record applied for may or must be refused or granted, is on the head concerned.

We have provided guidance to Saskatchewan local authorities on the meaning and application of the burden of proof in the following manner:

There are two things we require of a public body when we undertake a review under LA FOIP. One is a true copy of the record that would be responsive to the access request. The second is the written submission or argument from the local authority that explains why a particular exemption should apply to the unique facts of any review. Since our office attempts wherever possible to resolve these reviews informally without the requirement to issue a formal report, we endeavor to explain to the local authority when more information is required to allow us to complete our review. If a submission is weak or incomplete, we typically communicate that to the local authority and invite a further submission.

This information is communicated through the following instruments:

- *Helpful Tips: OIPC Guidelines for Public Bodies/Trustees in Preparing for a Review*[24]

- *FOIP FOLIO* (e-newsletter) (August 2005, August 2007, May 2008, November 2008, and January 2011)[25]

- Investigation and Review Reports available at www.oipc.sk.ca (including LA-2004-001, LA-2007-001, LA-2010-001, LA-2010-002, LA-2011-001)[26]

[24]SK OIPC, *Helpful Tips*, available at www.oipc.sk.ca/resources.htm.
[25]SK OIPC *FOIP FOLIO* (August 2005, August 2007, May 2008, November 2008 and January 2011), available at www.oipc.sk.ca/newsletters.htm.

- Numerous training sessions, conferences and workshops over the last eight years

The point is that the primary purpose of LA FOIP is to make local authorities more accountable to citizens and the default position is that documents in the possession or under the control of a local authority should be released to an applicant requesting access. This right of access is subject to **limited and specific exemptions** defined in the legislation. To ensure that those limited and specific exemptions are applied appropriately and consistent with the primary purpose of increased transparency, our office has been statutorily mandated to oversee the actions of local authorities in responding to citizen requests for access.

Our experience to date with the City is that when a review is undertaken pursuant to Part VI of LA FOIP, it provides our office with a copy of the Record but its submission or argument is skeletal and simply a restatement of the City's conclusion that a particular exemption applies. Such an approach is unhelpful and inconsistent with the requirement that any exemption be justified when citizens seek a review by our office of a decision by a local authority to deny access to all or part of a record.

If the Legislative Assembly had intended that the City should be the ultimate arbiter of what should or should not be released to the public, there would have been no need to assign oversight responsibility to an independent office of the Assembly with a right to appeal to the Court of Queen's Bench. If the Assembly had intended that the Commissioner should simply defer to the decision of the local authority to withhold all or part of a record, there would have been no reason for the procedure whereby an aggrieved citizen can ask our office to review the decision of the local authority. Similarly, there would have been no reason for the burden of proof provision if the Assembly thought that deference should be paid to the decision of the local authority in denying access.

The City of Saskatoon has consistently taken the position that it has no interest in working with our office to provide additional information or material to meet its burden of proof. Instead we are invited to issue our Report without the kind of consultation and negotiation that is common on review files with all other public bodies.

In my view, citizens are poorly served when their local government denies access to its citizens and then refuses to provide sufficient evidence and reasons for the denial of access to the oversight agency that is mandated to review its actions and determine whether it acted in compliance with the law. Laws like LA FOIP have been described by the Supreme Court of Canada as quasi-constitutional in nature. In the Criminal Lawyers Association decision, the Supreme Court has indicated that:

> …there is a *prima facie* case that s. 2(b) [Charter of Rights and Freedoms] may require disclosure of documents in government hands where it is shown that, without the desired access, meaningful public discussion and criticism on matters of public interest would be substantially impeded. As Louis D. Brandeis famously wrote in his 1913 article in *Harper's Weekly* entitled "What Publicity Can Do": "Sunlight is said to be the best of

[26]SK OIPC Reports LA 2004-001, LA-2007-001, LA-2010-001, LA-2010-002, LA-2011-001, available at www.oipc.sk.ca/reviews.htm.

> disinfectants... ." Open government requires that the citizenry be granted access to government records when it is necessary to meaningful public debate on the conduct of government institutions.[27]

I strongly recommend that the City reevaluate the fashion in which it manages its responsibilities under LA FOIP. Our office has offered, since at least 2010, to meet with the Mayor, City Manager and/or Council to discuss the need to better meet that city's transparency requirements and its statutory obligations under LA FOIP. I encourage the City to participate in such a process as quickly as possible in order that Saskatoon residents may enjoy the full benefit of the rights guaranteed by LA FOIP.

[27] *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815.