

2000 – 097

**PART 3 PRIVACY PROTECTION: IS IT ANYBODY'S BUSINESS?**

**FIPPA – Privacy (difference between personal information and business information) –  
Manitoba Culture, Heritage and Tourism**

**s. 1 definition of “personal information”**

*Introduction: The question arose in this case, one in a series of complaints touching on the same issue, of whether Part 3 of The Freedom of Information and Protection of Privacy Act (FIPPA), concerning “Protection of Privacy”, applies to business information.*

*Based on research conducted by our office, it is our opinion that Part 3 of FIPPA does not apply to business information. The issue hinges on the definition of personal information under the Act. It is our view that business information does not fall within the meaning of “personal information”, and therefore Part 3 does not apply. The basis for our reasoning is developed further in the case summary below.*

*We believe that in order to determine the applicability of Part 3 of FIPPA, one would need to review the records at issue and ascertain what the information is about. If the information is about a business, and not an individual, then it is possible that Part 3 would not apply because it would not be personal information. However, we acknowledge that there could be situations where there are tidbits of information or marginalia on a record that could very definitely be classed as personal information.*

*In the case summarized below, we did not regard the name of an individual as personal information because, in this situation, the reference to the individual's name was in the context of his being the owner of a business. Further, the history of the individual's contact with governmental departments was completely related to his business, and not about him as an individual.*

Our office received a complaint under FIPPA about an alleged breach of privacy by Manitoba Culture, Heritage and Citizenship. Essentially, it was the complainant's contention that, based on information contained on some pages he had received from the Department under a FIPPA access request, the Department had collected and disclosed his personal and business information without his knowledge.

In our enquiries with the Department, we discussed the complainant's allegations about the improper collection and disclosure of the information at issue. As background, the public body indicated to our office that all information on the complainant's business was collected specifically to evaluate an application under a particular Canada-Manitoba Agreement. The Department informed our office that all information collected was kept confidential within the terms of the application which states how business information may be collected and disclosed. The Department also indicated to our office that the initial reply form and the application clearly informed an applicant that the information provided may be shared between the Department and other third party organizations as deemed necessary. We reviewed the Canada-Manitoba Agreement, which confirmed this was the situation.

The documents in question consisted of internal memoranda, files notes, and portions of briefing materials. Our review of the particular portions of information that the complainant alleged were collected and disclosed in contravention of FIPPA, indicated that the information at issue related specifically to his business.

Part 3 of FIPPA, Protection of Privacy, (sections 36 to 48) sets out various provisions for the collection, correction and retention of “personal information” together with restrictions on the use and disclosure of that information. However, in order for the protection of privacy provisions of FIPPA to apply, the information must be “personal information” as defined by the Act.

Therefore, it must be determined that the information at issue is “personal information” as defined by the Act. If the information is not personal information, then the privacy provisions of the Act would not apply.

FIPPA defines “personal information” as recorded information about an identifiable individual, including:

- (a) the individual's name,*
- (b) the individual's home address, or home telephone, facsimile or e-mail number,*
- (c) information about the individual's age, sex, sexual orientation, marital or family status,*
- (d) information about the individual's ancestry, race, colour, nationality, or national or ethnic origin,*
- (e) information about the individual's religion or creed, or religious belief, association or activity,*
- (f) personal health information about the individual,*
- (g) the individual's blood type, fingerprints or other hereditary characteristics,*
- (h) information about the individual's political belief, association or activity,*
- (i) information about the individual's education, employment or occupation, or educational, employment or occupational history,*
- (j) information about the individual's source of income or financial circumstances, activities or history,*
- (k) information about the individual's criminal history, including regulatory offences,*
- (l) the individual's own personal views or opinions, except if they are about another person,*
- (m) the views or opinions expressed about the individual by another person, and*
- (n) an identifying number, symbol or other particular assigned to the individual;*

The definition's reference to “recorded information about an identifiable **individual**” and the wording of the inclusions (a) to (n) above, articulate that the purpose and intent is to protect the privacy of a natural person, a human being. The Act's use of the term “individual” makes it clear that the protection provided with respect to the privacy of personal information relates only to a natural person. In our view, if the legislation had intended “identifiable individual” to include a sole proprietorship, a partnership, an association or a corporation, it could have and would have used the appropriate language to make this clear. Therefore, it was our opinion that in the context of the definition of “personal information”, corporations, organizations, businesses or public bodies are not natural persons. Accordingly, information about these entities, and including for example, the business in question, would not be information about an individual.

Our review indicated that the information was specifically about the complainant's business, a commercial entity, and not about him, an individual. Any references to the complainant by name in these documents was in the context of him as the associated owner of the business and not about him as an “individual.” Our office did not consider this information as “personal information” within the definition set out in FIPPA and consequently, the privacy provisions of the Act would not apply.

For these reasons, the complaint was not supported and there was no recommendation that could be made by the Ombudsman in this matter.