

2001-231

**NAMING THE APPLICANT IS BAD PRACTICE OR WORSE!**

**FIPPA – Privacy (disclosure of applicant’s identity; not personal information; limiting disclosure) – City of Winnipeg**

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

*Introduction: Where a public body enquires whether a third party would consent to the release of information otherwise subject to an exception under the Act, the public body should not disclose the applicant’s name or other identifying information. While a third party might more readily consent to the release of information if he or she knew who the applicant was, the disclosure of the applicant’s identity – if the applicant is an individual and has not provided consent -- would normally not be authorized under the disclosure provisions of The Freedom of Information and Protection of Privacy Act (FIPPA). Under FIPPA, the disclosure by a public body of personal information must be limited to the minimum amount necessary to accomplish the purpose for which it is disclosed. Revealing the identity of an applicant for access is not necessary to the task of enquiring about consent to release records or parts of records.*

*In the case summarized below, the public body did not breach the privacy provisions of FIPPA when it disclosed to a third party the affiliation of an access applicant who worked for a media outlet. This is because the applicant’s affiliation did not cause a link to be made to an identifiable individual. Nevertheless, the identification of the media outlet to the third party was poor practice. Early in our review, the public body acknowledged that the information should not have been shared with the third party.*

An individual complained to our office under FIPPA about an alleged breach of privacy by the City of Winnipeg (Planning, Property and Development Department). The individual, a member of the media, alleged that the City had disclosed the individual’s affiliation to a third party, contrary to FIPPA, in the course of processing an application for access.

The individual had filed an application for access under FIPPA with the City of Winnipeg for all records concerning the dealings between the third party, an officer of a named local business, and the City. In its response to the access request, the City wrote:

*The Planning, Property and Development Department has brought this matter to the attention of [the third party]. **[The third party] has advised that [the media outlet] may contact him directly at [telephone number] to obtain the requested information.*** (emphasis added).

The phrase shown in bold was the basis for the individual’s complaint.

Our office wrote to the City of Winnipeg and requested additional information about the circumstances connected with processing the access request. The City advised our office it had contacted the third party in question to enquire about consent to release the requested information, but the person did not provide consent to release. We were advised that, instead, the third party suggested that the media outlet contact him directly to obtain the requested information.

Part 3 of FIPPA, Protection of Privacy, (sections 36 to 48) sets out various provisions with respect to the collection, correction and retention of “personal information” together with

restrictions on the use and disclosure of that information. However, in order for the privacy provisions of FIPPA to apply, the information at issue must be personal information as defined by the Act.

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;*

Although the City of Winnipeg acknowledged that it disclosed the name of the media outlet to the third party, we had no basis to conclude that the City disclosed the name of the representative of the media outlet or any other information that would personally identify that individual to the third party. The identity of the media outlet was not information about an identifiable individual. This is because the disclosed information would not be a clear link to an identifiable individual.

Based on our review, we determined that the disclosed information did not constitute personal information within the meaning of FIPPA. Accordingly, the privacy provisions of the Act did not apply because the information at issue was not personal information.

Nevertheless, while there was no disclosure of personal information under the Act, it was our view that, as a best practice, the City should have shared only the minimum amount of information that was necessary to process the access request while making enquiries with the third party. The City's indication to the third party that the media outlet was involved was, in our opinion, beyond the minimum amount of information necessary for the purpose of seeking consent from the third party. The City acknowledged that this information should not have been disclosed.

Based on our review of the complaint in the context of the legislation, as well as on information provided by the individual and the City of Winnipeg, the complaint was not supported and there was no recommendation that the Ombudsman could make in this matter.