



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2025-020

March 31, 2025

City of St. John's

### Summary:

The Complainant made an access to information request to the City of St. John's seeking records about themselves and an address. The City's search produced more than 400 pages of records. Upon review, the City determined that some of the information should be withheld pursuant to sections 29(1)(a) (policy advice), 30(1) (legal advice), and 40(1) (disclosure harmful to personal privacy). The Complainant asserted that the City had not met its duty to assist by not disclosing all records that exist. Further, the Complainant claimed that the material withheld by the City should be disclosed. This Office reviewed the material and determined that the City had met its duty to assist the Complainant. Moreover, the Complainant did not substantiate their claim that additional records existed. During our investigation, the City disclosed to the Complainant information previously withheld under section 29. On review of the information withheld under section 30(1), this Office determined that the use of that section was applicable.

### Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, ss. 13(1), 29(1), 30(1), and 40(1).

Authorities Relied On: NL OIPC Reports [A-2016-009](#) and [A-2024-056](#).

Ontario [Order MO-4108](#).

## BACKGROUND

- [1] The Complainant made an access request under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) to the City of St. John’s seeking the following:

All City of St. John’s communications regarding myself personally, and/or regarding my personal residential property located at [named location], St. John’s, from January 1, 2022 to September 30, 2024, that I have not been privy to directly previously (all communication that I have not been already sent to me previously, communications that have not been emailed directly to me previously during that time frame).

- [2] The Department’s search produced more than 400 pages of responsive records. Upon review of these records, the Department withheld parts of records pursuant to sections 29(1)(a), 30(1), and 40(1).

- [3] The Complainant asserts that the Department did not meet its duty to assist as required by section 13(1) of the Act, as not all records were disclosed and those that were disclosed were disorganized and repetitive. The Complainant also did not agree with the determination by the City to withhold information from the responsive records.

- [4] During the course of our investigation, the City provided to the Complainant records previously withheld under section 29, leaving only the duty to assist, and redactions made under sections 30 and 40 at issue.

- [5] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

## PUBLIC BODY’S POSITION

- [6] The Department states that it did conduct a thorough search for records and followed the Complainant’s request to not provide records that the Complainant received in previous access to information requests to the City. With respect to the information that is withheld, the City maintains its position that the use of sections 30(1) and 40(1) are appropriate.

## COMPLAINANT'S POSITION

- [7] The Complainant asserts that they know that additional records were not disclosed, though no further information was provided to substantiate that claim. The Complainant also states that the City withheld more information than was justified under the Act.

## DECISION

### The Duty to Assist

- [8] Section 13 states:
- 13.(1) The head of a public body shall make every reasonable effort to assist an applicant in making a request and to respond without delay to an applicant in an open and complete manner.
- [9] As this Office has stated in numerous reports, the duty to assist is a fundamental component of the access to information process. A key part of the duty to assist is ensuring that the public body conducts a reasonable search for responsive records based on the applicant's request. A public body's search does not have to be perfect, but a reasonable effort must be made to locate possible records.
- [10] In its submission to this Office, the City noted that it conducted its records search using the name of the Complainant and the address provided by the Complainant. The search based on these terms produced hundreds of records, which were then reviewed to assess whether any exceptions to access applied and also to remove records provided to the Complainant in response to previous access to information requests. In the end, 411 pages of records were disclosed. The request from the Complainant was not ambiguous, the search terms used by the City were appropriate and the search was therefore reasonable.
- [11] The Complainant's assertion that the City did not meet its duty to assist is based on two arguments. First, the Complainant states that they were informed that certain emails regarding their property were not disclosed. The Complainant offered no further information to clarify this statement. It has long been the position of this Office, recently expressed in Report [A-2024-056](#), that an assertion by a Complainant that additional records exist and have

not been disclosed must be supported by some logical rationale or evidence, which is not the case here.

[12] The Complainant's second reason for asserting that the City did not meet its duty to assist was the manner in which the records were produced. The Complainant states that much of the information consisted of duplicates of records, which should have been removed. While the records do contain duplications, this Office notes that such information is provided in the form of numerous email chains that were responsive to the Complainant's request. To preserve transparency, public bodies often reproduce entire email chains at each point when a new email is added. Though this results in duplicated information, it also allows a Complainant to see how the email chain developed.

[13] Based on the above, I find that the City has met its duty to assist under section 13(1) of the Act.

#### Application of Section 30(1)

[14] Section 30 of the Act addresses records that include information containing communications between lawyers and public bodies. Section 30(1) states:

- 30.(1) The head of a public body may refuse to disclose to an applicant information
- (a) that is subject to solicitor and client privilege or litigation privilege of a public body; or
  - (b) that would disclose legal opinions provided to a public body by a law officer of the Crown.

[15] For a Public Body to sustain a claim of section 30(1), the following three conditions, set forth in Report [A-2016-009](#), must be satisfied:

1. It must be a communication between a solicitor acting in a professional capacity and a client;
2. The communication must entail the seeking or giving of legal advice; and
3. The communication must be intended to be confidential.

[16] The City provided the records for our review which it had withheld from the Complainant under section 30(1). Our review determined that the withheld information is solicitor and client information and was therefore appropriately withheld in accordance with section 30(1).

#### Application of Section 40(1)

[17] Section 40 prohibits the disclosure of personal information if it would constitute an unreasonable invasion of personal privacy. It covers both person information of public body employees and of other individuals. Though the City produced hundreds of pages of responsive records, there are relatively few redactions pursuant to section 40(1). In fact, nearly all the information withheld according to section 40(1) relates to contact information of private individuals involved in the Complainant's matter with the City.

[18] There is, however, one instance of information withheld under section 40(1) which does not qualify as personal information. The City has withheld from the Complainant drawings depicting the floorplans of a residential property prepared by the property's builder. While the definition of personal information at section 2 of the Act is not exhaustive, to qualify as personal information the information must be about an identifiable person and an expectation that an individual could be identified through the disclosure of the information. In Order MO-4108, the Ontario Information and Privacy Commissioner considered whether the floor plans of a home qualified as personal information and concluded:

[22] The city submits that the records consist of architectural drawings containing detailed layouts of all access points to the property, as well as clear depictions as to where each room and bedroom is located. The city's position is that these records qualify as the affected party's personal information as they consist of the affected party's name where it appears with other personal information relating to that individual, falling within paragraph (h) of the definition of personal information in section 2(1) of the Act. The city also submits that the information contained in the records should be considered to be information about the affected party and not about the property itself.

...

[25] I have carefully reviewed the records at issue. For the reasons that follow, I have concluded that information contained in the records is not "personal information" as defined by section 2(1) of the Act but rather that it is information about a property.

[26] A long line of past IPC Orders have found that building plans, including residential plans, do not qualify as personal information as defined by section 2(1) the Act, because they reveal only information about a property, and do not represent recorded information about an identifiable individual, unless there is personal information in them such as the property owner's name and telephone number.

[27] Examples of past IPC decisions include Orders 23 and MO-2081. In Order 23, the distinction between "personal information" and information concerning residential properties was first addressed by former Commissioner Sidney B. Linden. In that Order, the Commissioner made the following findings, which have been applied in a number of subsequent orders of this office:

In considering whether or not particular information qualifies as "personal information" I must also consider the introductory wording of subsection 2(1) of the Act, which defines "personal information" as "...any recorded information about an identifiable individual...". In my view, the operative word in this definition is "about". The Concise Oxford Dictionary defines "about" as "in connection with or on the subject of". Is the information in question ... about an identifiable individual? In my view, the answer is "no"; the information is about a property and not about an identifiable individual. [emphasis in original]

The institution's argument that the requested information becomes personal information about an identifiable individual with the addition of the names of the owners of the property would appear to raise the potential application of subparagraph (h) of the definition of "personal information".

Subparagraph (h) provides that an individual's name becomes "personal information" where it "... appears with other personal information relating to the individual or where the disclosure of the name would reveal other information about the individual" (emphasis added). In the circumstances of these appeals, it should be emphasized that the appellants did not ask for the names of property owners, and the release of these names was never at issue. However, even if the names were otherwise determined and added to the request information, in my view, the individual's name could not be said to "appear with other personal information relating to the individual" or "reveal other personal information about the individual", and therefore subparagraph (h) would not apply in the circumstances of these appeals.

[28] In Order 23, the information at issue was the estimated market value of properties identified by municipal address. Several subsequent orders have departed from Order 23 in concluding that the appraised value and other financial information about properties owned by individuals, are personal

information. However, the underlying analysis in Order 23, and the question of whether the information is about an identifiable individual, remains valuable in assessing this issue.

[29] In Order MO-2081, Adjudicator Catherine Corban was dealing with the issue of access to records that consisted of copies of a site plan relating to a proposed residential building on a specific property. The site plan delineated the existing buildings and structures on the property as well as the proposed residential structure to replace the current one. The property itself was identified on all site plans both in the title and the body of the plan by its legal description, and its lot and concession number within the particular township. The site plans did not identify the owner of the property. Adjudicator Corban found that drawings, plans and notations about proposed alterations or additions to a property in the context of a building permit application did not qualify as personal information because it was about the property.

[19] I agree with the Ontario adjudicator that the floor plans are not personal information about an identifiable individual.

## RECOMMENDATIONS

[20] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the City of St. John's disclose to the Complainant the floor plans at pages 184, 185, and 186 and again at pages 197, 198, and 199.

[21] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the City of St. John's continue to withhold information withheld pursuant to section 30 and the remainder of the information withheld pursuant to section 40.

[22] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the City of St. John's must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[23] Dated at St. John's, in the Province of Newfoundland and Labrador, this 31<sup>st</sup> day of March 2025.



Kerry Hatfield  
Information and Privacy Commissioner  
Newfoundland and Labrador