



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-001

February 20, 2026

Town of Bay Bulls

Summary:

The Complainant made an access request to the Town of Bay Bulls for records about a plan to expropriate a property. The Town provided responsive records, withholding information under section 29 (policy advice and recommendations), section 30 (legal advice), and section 35 (disclosure harmful to the financial or economic interests of a public body) of the **Access to Information and Protection of Privacy Act, 2015**. The Complainant argued that the expropriation was discussed in a public town council meeting and thus there is no justification for withholding the information. The Complainant also alleged that the Town failed in its duty to assist as required by section 13. This Office determined that some information could be withheld; however, the Commissioner also concluded that several of the records had been tabled at a public council meeting and recommended their disclosure. The Commissioner also found the Town had met its duty to assist.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 13, 29, 30, and 35.

[Towns and Local Service Districts Act](#), SNL2023, c. T-6.2, section 50.

Authorities Relied On: NL OIPC Reports [A-2020-011](#), and [A-2025-038](#).

[Newfoundland and Labrador \(Justice and Public Safety\) v. Newfoundland and Labrador \(Information and Privacy Commissioner\)](#), 2022 NLSC 59.

BACKGROUND

- [1] The Complainant submitted an access to information request to the Town of Bay Bulls under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”), seeking information about a motion and approval to proceed with an expropriation of land referenced in the Town’s July 2025 council meeting minutes.
- [2] The Town responded by providing partial access to the records. However, the Town withheld some information under section 29 (policy advice and recommendations), section 30 (legal advice), and section 35 (disclosure harmful to the financial or economic interests of a public body) of the Act. The Complainant proceeded to file a complaint with this Office.
- [3] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY’S POSITION

- [4] The Town maintains that it appropriately withheld parts of the material submitted to council relating to the expropriation of the land under sections 29(1)(a), 30(1)(a), 35(1)(f), and 35(1)(g).
- [5] The Town maintains that it appropriately withheld parts of two other packages of records that were not tabled at the council meeting, under sections 30(1)(a), 30(2), 35(1)(f), and 35(1)(g).
- [6] The Town further submits that it met its duty to assist pursuant to section 13 of the Act as all records in the Town’s possession were provided to the Complainant. The Town has explained there were few responsive records as the matter of expropriation had only commenced in July 2025 and the access to information request was received in October 2025. The motion for expropriation was later rescinded in December 2025. The Town also acknowledges its response did not include a copy of its submissions to the Minister of

Municipal and Community Affairs regarding the expropriation. The absence of this record is largely responsible for the Complainant's belief the Town's response is incomplete. However, the Town has advised this stage in the expropriation process had not been reached at the time the request for access was received, and did not ultimately occur.

COMPLAINANT'S POSITION

[7] The Complainant asserts that the Town improperly redacted and withheld records related to the plan to expropriate a property. As this information was presented publicly to elected officials in a public forum, the Complainant submits there is no reasonable justification for it to be withheld. They argue the motion for expropriation has since been overturned and thus the disclosure of information would no longer be harmful to the financial interests of the Town. The Complainant believes the information is of public interest as it allows transparency for the actions of the Town.

[8] The Complainant also submits additional records exist as they had requested a copy of the request to proceed with expropriation of land that was sent to the Minister of Municipal and Community Affairs and this information was not provided in the responsive records.

ISSUES

[9] At issue for this Report is whether the Town properly applied section 29, section 30, and section 35 of the Act, and whether the Town fulfilled its duty to assist as required by section 13.

DECISION

[10] The relevant provisions of the Act are as follows:

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal
- (a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister

...

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

...

(2) The head of a public body shall refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a person other than a public body

...

35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

...

(f) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which related to those negotiations

...

(g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body

[11] Section 29(1)(a) is a discretionary exception under the Act. Where the public body can demonstrate the records in question fall within the description of the section, the public body is permitted to redact or withhold records pursuant to that section. The Town conducted a line-by-line review of the records and its redactions were limited to the information that falls within the above noted section.

[12] Section 29(1)(a) was applied to redact portions of the material tabled for council relating to the expropriation of the land; the content of which is clearly advice, proposals, recommendations, analyses, and policy options. Typically, the Town would be entitled to redact this information; however, as the material was tabled at a public meeting the eight

page record is publicly available in accordance with section 50 (inspection of documents) of the **Towns and Local Service Districts Act** which reads as follows:

50. (1) The following documents shall be made available by a town council for public inspection during the normal business hours of the town:

...

(l) all other documents tabled or adopted by the town council at an open meeting

[13] In its submissions, the Town did not provide any evidence that the council meeting at which the document was tabled was a privileged or in camera meeting or otherwise not an open meeting of council.

[14] Section 30(1)(a) of the Act was also applied to the first page of the material tabled for council. Waiver of solicitor-client privilege must be done either explicitly, or implicitly by an act that demonstrates an intention to waive the privilege (see Report [A-2020-011](#)). As Council tabled the document, thereby making it publicly available, it would appear that privilege has been waived. Section 30 is intended to protect against the disclosure of communication between a solicitor and client. In this case the information has already been disclosed by the client through the tabling of the document.

[15] Section 35(1)(f) and 35(1)(g) of the Act were also applied to the same information that had been redacted under section 29(1)(a). Our finding that the **Towns and Local Service Districts Act** applies to make this information publicly available also applies to the application of section 35.

[16] Section 30 was also applied to redact information in the other two packages of records. To withhold records pursuant to section 30(1), the record in question must meet the following three conditions:

1. The record 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

[17] The Town provided these records in full to this Office, which greatly facilitated our review and allowed us to determine the information was indeed subject to solicitor-client privilege. The Town can therefore withhold the information under section 30(1).

[18] Similarly, section 30(2) was used to redact information in the second package of records which contained information subject to solicitor and client-privilege of a person other than a public body. After reviewing these records, we are satisfied this exception was also appropriately applied.

[19] Section 35(f) and (g) of the Act were also applied to the same information withheld under section 30(1) and 30(2). Having concluded the information can be withheld under those exceptions as legal advice, it is not necessary to consider the application of section 35.

Section 13(1) – Duty to Assist

[20] Section 13 of the Act imposes on public bodies a duty to assist access to information applicants, as follows:

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, accurate and complete manner.

[21] The aspect of section 13 that is at issue is whether the public body responded in a complete manner to the Complainants' request for information by conducting a reasonable search. Specifically, the Complainant was seeking a copy of the request to proceed with expropriation of land that was sent to the Minister of Municipal and Community Affairs, which they did not receive.

[22] The Town has submitted that the complete set of records on file was provided to the Complainant, subject only to the exceptions noted above, and the specific record sought by the Complainant does not exist as the expropriation had not reached that stage.

[23] The standard to be applied to a search for records by a public body has been stated in many past Reports issued by this Office, including recently in Report [A-2025-006](#) (at paragraph 24):

. . . The Act does not require the public body to prove with absolute certainty that records do not exist. The public body must provide evidence to show that it has made a reasonable effort to locate records responsive to the request. 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. The standard is not perfection, but one of reasonableness.

[24] From our review of the Town's submissions, this Office is satisfied the Town conducted a reasonable search for responsive records and assisted the Complainant in an open manner by explaining why a specific record could not be produced. The Town has met its duty to assist the Complainant.

Section 9 – Public Interest Override

[25] The Complainant has also argued that the information is of public interest as it allows for transparency of the Town's actions. As this information relates to the Complainant's own personal circumstances, this information would not likely serve the interests of the public. Also, the threshold for concluding that the public interest in disclosure outweighs the purpose of the exception (to protect solicitor-client privilege) would be very high. We therefore find that the public interest override in section 9 does not apply.

RECOMMENDATIONS

[26] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend:

1. The Town of Bay Bulls release in full the eight-page document tabled for council relating to the expropriation of the land, and
2. With respect to the records not tabled at the council meeting, to continue to withhold that information withheld under section 30.

[27] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Town of Bay Bulls 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.

[28] Dated at St. John's, in the Province of Newfoundland and Labrador, this 20th day of February 2026.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador