



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report P-2019-002

November 4, 2019

### Town of Aquaforte

#### Summary:

The Complainant submitted a privacy complaint against the Town of Aquaforte (the Town) under the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)*. The complaint was in relation to the Town's decision to send a letter to the property owner of the property where the Complainant resides with respect to taxes owing. In addition to the amounts due, the Town, without explicitly naming the individual, included in this letter personal information of the Complainant, including that the Complainant had a previous privacy complaint with this Office involving the Town, and its assertions regarding alleged lying and character assassination by the Complainant to the Town. The Commissioner determined that the Town breached the Complainant's privacy by disclosing personal information to the property owner in contravention of section 68(2) (disclosure of personal information) of *ATIPPA, 2015*. This breach was exacerbated by the Town's failure to implement policies and procedures and to educate staff and Council about how to best protect personal information from improper collection, use and disclosure. The Commissioner made recommendations to the Town relating to its need for greater caution when handling personal information in similar circumstances in the future.

#### Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), S.N.L. 2015, c. A-1.2, sections 2 and 68.

#### Authorities Relied On:

ATIPP [Guide for Municipalities](#), [Municipal Information and Privacy Policy Template](#) and [Privacy Breach Protocol](#).

## I BACKGROUND

- [1] The Complainant submitted a privacy complaint to this Office alleging that the Town of Aquaforte (the Town) had improperly disclosed her personal information pursuant to section 68(2) of the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)*. The Complainant's allegation involved a letter sent by the Mayor to the property owner of the home where the Complainant resides within the Town, and the Town's commentary about the Complainant to the property owner within that letter.
- [2] The Town responded to the complaint maintaining it did not breach the personal information of the Complainant as it had not directly named the Complainant in the letter in question, and believed the content of the letter was within its rights as a Town in order to collect taxes owed.
- [3] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 74(2) of *ATIPPA, 2015*.

## II PUBLIC BODY'S POSITION

- [4] The Town submitted that the letter in question was drafted and sent for the purpose of collecting funds owing by the property owner. It maintained that it had not breached the Complainant's personal information because:

*In our correspondence with [property owner], no mention was made of [Complainant's] name and what [Complainant] owes to the Town Council, [Complainant], was not mentioned in that letter. We told [property owner] what was owing on his property.*

Additionally the Town indicated that in order to collect taxes it is required to indicate amounts owed and what each amount is for.

- [5] In the letter, the Town went on to note the Complainant's previous grievances with the Mayor and the Town, including stating particulars of past alleged incidents and actions the Town has taken in relation to these matters. It acknowledged that it gave details to the

property owner because it had dealt directly with the Complainant about these concerns for a year and hoped the property owner would “have a conversation with [Complainant].”

[6] The Town also submitted that it believes the Complainant lied to this Office in a previous privacy complaint involving the same parties and noted in its submission that it was concerned that the property owner needed “to know the individual we are dealing with and what [Complainant] is capable of,” noting that “if [Complainant] lied to the Privacy Commissioner’s Office, we have to assume that [Complainant] would have no problem in not giving property owner the full truth.”

[7] Finally, the Town stated that it has “tried our best to comply with Privacy Commissioner’s rules” and “would never, ever, knowingly breach one of our resident’s privacy.”

### III COMPLAINANT’S POSITION

[8] The Complainant indicated that as part of an agreement with the property owner, the Complainant looks after the property and pays the taxes. The Complainant believes the Town is trying to create a problem and was discussing the Complainant’s taxes with the property owner improperly.

### IV DECISION

[9] Personal information is defined under section 2 of *ATIPPA, 2015* as “recorded information about an identifiable individual.” The Town has indicated that it does not believe a breach of the Complainant’s personal information occurred because it did not directly name the Complainant in the letter in question. However, an individual can be identifiable in ways other than by name. So long as the individual is identifiable through the context of the information, the information is personal information in accordance with *ATIPPA, 2015*.

[10] In this case, while the Town does not name the Complainant, the letter does contain information that identifies the Complainant, which the letter’s recipient, the property owner, would easily have understood to be about the Complainant. This information includes a

discussion of comments the Complainant allegedly made to the Mayor, discussion of a previous privacy complaint to this Office involving the Town and Complainant, as well as other references to the Complainant's personal information. The Town itself submitted that it included this information so that the "[property owner] could have a conversation with [Complainant]," which indicates it intended for the property owner to be able to identify the person it was commenting about. This Office has concluded that the information in question is sufficiently specific and obviously about the Complainant.

[11] Having concluded that the information in question is the personal information of the Complainant, the outstanding issue is whether the Town breached the Complainant's privacy by improperly disclosing this personal information.

[12] Section 68(2) of *ATIPPA, 2015* states:

*68. (2) The disclosure of personal information by a public body shall be limited to the minimum amount of information necessary to accomplish the purpose for which it is disclosed.*

[13] Prior to the actions that led to this privacy complaint, this Office was contacted by the Town's Mayor inquiring about sending a letter to a property owner outlining the taxes owing on a property. The Mayor noted that a tenant resided at the property in question, and wondered if there was anything she needed to be concerned about from an access and privacy perspective and sought confirmation that she could address taxes owing in this matter. The Mayor was told by this Office that the Town was within its rights to discuss generally taxes owing on a property with that property's owner, but that she should not discuss the tenant's personal information with the property owner as that would be beyond the scope of the stated purpose of the letter.

[14] This discussion was in keeping with section 68(2) of *ATIPPA, 2015* that sets parameters around disclosure of personal information, limiting it to the minimum amount of information necessary to accomplish the purpose for which it is disclosed. It is important as well to note that the "purpose" must be one that is within the Town's authority to act on and/or substantiated within legislation.

[15] Part of the work of a Town is to collect taxes owing and to use that money for municipal services. Therefore the Town is correct that it is within its authority to write to a property owner it believes has outstanding property taxes to provide information for the purpose of collecting the taxes owing. The Town, as a public body under the Act, must then ensure any disclosure of information is in keeping with section 68(2) and kept to the minimum amount necessary to retrieve the outstanding taxes. It would be logical to conclude that this information might include specific tax amounts owed, dates, etc. Were the Town to have kept its letter to the property owner to just this limited information in service of its stated purpose, the personal information of the Complainant would not have been included in the letter and there would be no privacy breach.

[16] However, the Complainant's personal information has no obvious connection to the stated purpose of tax collection, and therefore the Town cannot be said to have limited its disclosure of information to the minimum amount necessary. Moreover, the Town was alerted to this issue and was counselled not to disclose personal information in this manner by this Office previously and disregarded that recommendation.

[17] The Town indicated that it was frustrated as a result of its dealings with the Complainant, and desired for the property owner to speak with the Complainant to address its concerns. The Town thought including the Complainant's personal information might prompt such a discussion between those parties. Even presuming this was a legitimate purpose, only some of the Complainant's personal information included in the letter would have been necessary for this purpose. For example, the Town informed the property owner of a previous privacy complaint involving the Town and Complainant and alleged that the Complainant lied in making that complaint. That topic has no connection to the Town's relationship with the property owner, nor is it anything that could be addressed in a meaningful way by the property owner to the Complainant. The disclosure of this personal information was therefore a breach of the Complainant's privacy.

[18] Of relevance to this privacy complaint is that in informally resolving the previous complaint between these parties, this Office made several recommendations to the Town to ensure its compliance with its obligations under *ATIPPA, 2015*. These recommendations remain

unimplemented. Policies and procedures to assist the Town in complying with its obligations pursuant to *ATIPPA, 2015*, along with training for staff and Council and the development of a privacy breach protocol are necessary measures for the Town to take moving forward. The ATIPP Office has published some useful tools to assist in some of the above, including its [Guide for Municipalities](#), [Municipal Information and Privacy Policy Template](#) and [Privacy Breach Protocol](#).

## V CONCLUSIONS

[19] In summary, this Office concludes that:

- Disclosure by the Town of tax information to the property owner was not a breach of the Complainant's personal information as the tax information was attached to the property and is not the Complainant's personal information.
- The Complainant's personal information was disclosed by the Town in the letter to the property owner in a manner inconsistent with section 68(2) of *ATIPPA, 2015* constituting a breach of the Complainant's privacy.

[20] For further clarity, we have attached a copy of the original letter to the Town's copy of this Report with the inappropriate parts of the letter indicated in yellow highlighter.

## VI RECOMMENDATIONS

[21] Under the authority of section 76(2) of *ATIPPA, 2015*, I recommend that the Town take the following steps:

- in future ensure collection, use and disclosure of personal information is handled in accordance with *ATIPPA, 2015* sections 61, 62, 66, 68 and 69, which limit use and disclosure of personal information to only the minimum amount necessary;
- develop and put into effect policies and procedures for the protection of personal information in accordance with *ATIPPA, 2015*;

- develop a privacy breach protocol regarding how to deal with breaches of personal information and privacy, including how to respond to and manage a breach;
- provide *ATIPPA, 2015* training for all Town staff and Council;

[22] As set out in section 78(1)(b) of *ATIPPA, 2015*, the head of the Town 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 4<sup>th</sup> day of November 2019.



Michael Harvey  
Information and Privacy Commissioner  
Newfoundland and Labrador