



File# ITI-20-21-G-060 and ITI-21-22-G-085

SENT VIA EMAIL: [Kevin OReilly@ntassembly.ca](mailto:Kevin.OReilly@ntassembly.ca)

June 26, 2023

Mr. Kevin O'Reilly
MLA Frame Lake
PO BOX 1320
Yellowknife, NT X1A 2L9

Dear Mr. O'Reilly:

Request for Access to General Information

In response to the review report issued by the Information and Privacy Commissioner (IPC) on May 26, 2023, the Department of Industry, Tourism and Investment (ITI) has revised the response to your requests made under the *Access to Information and Protection of Privacy Act* on March 8, 2021 and September 16, 2021.

In compliance with the IPC's order, ITI has decided to grant you partial access to the requested records. Portions of the records contain information that is excepted from disclosure under the *Act*. Attached is a sections guideline listing to better explain the specific sections of the *Act* that were applied.

If you have any questions about this letter, please write or call Ms. Danielle Webb, Senior Information and Privacy Specialist at Danielle_Webb@gov.nt.ca or call me at (867) 767-9256 extension 82102.

Sincerely,

Pamela Strand
Deputy Minister
Department of Industry, Tourism and Investment

Attachments

Application of Exceptions under the *Access to Information and Protection of Privacy Act*

Section 14 - Advice to Officials

Section **14(1)** provides that a public body may refuse to disclose information if the disclosure could reasonably be expected to reveal information such as:

- *Advice, proposals, recommendations, analyses or policy options developed by or for a public body or a member of the Executive Council (section **14(1)(a)**);*

Section 14(1)(a) is a discretionary exception intended to maintain candor in the giving of advice, recommendations and related analytical alternatives for potential courses of action.

This exception was applied to one piece of information on page 20 of the documents. In looking at the application of this exception we undertook the following analysis:

- **Does the information requested qualify as an exception under the Act?**
 - *Yes. This information is advisory in nature.*
- **If the information fits the exception, then would disclosure of the information reasonably be expected to reveal the particular class of information involved?**
 - *Yes. The redacted information suggests a possible course of action for ITI to take. On review of this passage we believe disclosure of information that was advisory in nature, would reveal part of the deliberative process. Disclosure of this information could impede this process as ITI works toward a final decision.*
- **Should the Department exercise its discretion to disclose or not disclose the requested records?**
 - *In review of this matter, we determined that the provision of this advice must be protected in order to ensure the provision of frank and candid advice in the future.*

Section 23 - Personal Privacy of Third Party

When considering disclosure of a third party's personal information a public body is not allowed to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

Where this is noted in the records we have severed the excepted information so that we could disclose to you the remaining information in the records. The *Act* defines personal information as recorded information about an identifiable individual, including:

- the individual's name, home or business address or home or business telephone number;
- the individual's race, colour, national or ethnic origin or religious or political beliefs or associations;
- the individual's age, sex, sexual orientation, marital status, or family status;

- an identifying number, symbol or other particular assigned to the individual (e.g., social insurance number, personal health number);
- the individual's fingerprints, blood type or inheritable characteristics (e.g., DNA profile);
- information about the individual's health and health care history, including information about a physical or mental disability;
- information about the individual's educational, financial, criminal or employment history;
- anyone else's opinions about the individual; and
- the individual's personal views or opinions, except where they are about someone else.

This section of the *Act* establishes a mandatory exception (i.e., the public body has no discretion to release) for personal information if disclosure would be an unreasonable invasion of a third party's personal privacy.

Sections of the information have been excepted from disclosure under **23(1)**:

(1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

Section **23(2)** sets out the particular types of personal information, the disclosure of which is presumed to be an unreasonable invasion of a third party's personal privacy.

Sections of the information have been excepted from disclosure under **23(2)(d)** and **23(2)(h)(i)**:

(d) the personal information relates to employment, occupational or educational history;

*(h) the personal information consists of the third party's name where
(i) it appears with other personal information about the third party;*

This exception to access is mandatory and has been applied to a portion of the information requested. Access was denied to those portions of the records which pertain to employment information, as well as names of third parties.