Dear

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MIGA/69/2015]

On October 23, 2015, the Department of Municipal and Intergovernmental Affairs received your request for access to the following records/information:

"Your response of October 21/2015 to MIGA/65/2015 states: There is no documentation providing any validation/purpose/conditions, etc. for a "Friendly Hearing" which was an integral part of proceedings of a town matter as per MIGA/47/2015. Basically the interpretation is: documentation for a "Friendly Hearing" does not exist. Your response states: "The term ‘friendly hearing’ in the specific context of ATIPP request MIGA/47/2015 referred to the rules of natural justice relating to declaring a councillor's seat vacant." Request copy of those rules of natural justice you reference, relating to declaring a councillor's seat vacant, and specifically their relationship/connection/reference to/inclusion of a "friendly hearing"."

Our previous response referencing the rules of natural justice was a reference to general legal principles, established in case law, relating to fairness in the context of an administrative decision affecting a person's rights, interests or privileges. The rules of natural justice, also known as the "duty to be fair" or "procedural fairness," include two primary principles: 1) audi alteram partem ("the right to be heard") and 2) the rule against bias. The right to be heard refers to the requirement that the person know the case being made against him/her and be given an opportunity to answer the case (s)he is facing before the decision-maker. The rule against bias is the right of a person to have the decision made on his or her interest/right/privilege using a fair and impartial process appropriate to the context of the decision being made.

The scope and extent of the duty to be fair is variable and depends on the specific context of the case, including the nature of the inquiry, the subject matter and the rights interests or privileges at issue. With respect to a "Friendly Hearing" on whether to declare a municipal councillor's seat vacant, the municipal council determines the appropriate procedure to be followed.
Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement’s website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 729-6528 or by e-mail at scottwinters@gov.nl.ca.

Sincerely,

Scott Winters
Manager of Accountability / ATIPP Coordinator