

COR/2019/06579

November 28, 2019

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: TW/155/2019)

On November 14, 2019, the Department of Transportation and Works received your request for access to the following records:

I write to you per the Access to Information and Protection of Privacy Act, 2015 ("ATIPPA"). I have also attached an Access to Information form which I have completed. A Request for Proposals ("RFP") - Tender #11035 - was issued on March 12, 2018, by the Department of Transportation and Works for the leasing of office space for the Department of Fisheries and Land Resources for a 20 year period, and the office space to be located within the City of Corner Brook. The dosing date and opening of the public tender call of the proposals was April 16, 2018, at 3:00 p.m. at the Tendering and Contracts Office, Department of Transportation and Works, on the ground floor of the Confederation Building, East Block, in St. John's. At the public opening of the proposals which started shortly after 3:00 p.m. on April 16, 2018, in the boardroom of the Tendering and Contracts office on the ground floor, Confederation Building, East Block, Todd Smith was in attendance, along with [REDACTED] as representative for Noton. Jacqueline Vickers and Michelle Vokey were also present at the public opening of the proposals, Jacqueline Vickers as the Chairperson and Michelle Vokey as the Secretary. Jacqueline Vickers is the Manager of Tendering and Contracts. At that time Todd Smith was the Senior Accommodations Officer with the Department of Transportation and Works, and the Contact Person for RFP Tender #11035. I have been advised that during the public opening Jacqueline Vickers opened the envelopes and read out aloud the names of the bidders and their bid amounts. [REDACTED]

[REDACTED] in reference to the contemporaneous handwritten notes made by Todd Smith on April 16, 2018, at the public opening of RFP Tender #11035 and the reading out aloud by Jacqueline Vickers of the bidders, their names and bid amounts, (a copy of the contemporaneous handwritten notes of Todd Smith which [REDACTED] the ATIPP Coordinator stated "Mr. Smith was taking rough notes during the opening for his own use, and not in an official capacity". [REDACTED] wondering what information and documentation do the ATIPP Coordinator and/or the Department of TW and/or the Government of Newfoundland and Labrador (GNL) have in their possession and/or were provided with to be able to make the determination that Mr. Smith was (a) taking "rough notes", (b) "for his own use" and (c) "not in an official capacity". Could you please

forward unto me, (the Applicant), a copy of any and all communications in reference to and/or regarding the contemporaneous handwritten notes of Todd Smith of April 16, 2018, and its contents, and the circumstances surrounding this public opening and what was said at this public opening, including but not limited to all statements, memos, notes, correspondence, applications, declarations, affidavits, emails, documents, etc., which may have been made and/or provided by any of the following: Todd Smith, Michelle Vokey, Steve Slaney, Jacqueline Vickers, Robyn Bursey, Tracy English, Tracy King, Minister Steve Crocker, Denise Woodrow, Rolf Prichard, Keith Deering, Lori Ann Companion, Minister Gerry Byrne, Annette St. Croix, Heather Tizzard, Minister Sherry Gambin-Walsh, the Department of TW, Department of Fisheries and Land Resources (FLA), Attorney General of NL, Public Procurement Agency and including any and all exchange of any of the above-noted communications which may have taken place between any of the above from April 16, 2018, up to November 13, 2019.

Please be advised the Department of Transportation and Works has no records responsive to your request.

The *Access to Information and Protection of Privacy Act* requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

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 *Access to Information and Protection of Privacy Act* (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 this letter will be published following a 72 hour period after it 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 letter posted to the Completed Access to Information Requests 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 contact me by telephone at 709-729-5351 or by email at ATTW@gov.nl.ca.

Sincerely,

A handwritten signature in black ink that reads "Angela McIntyre".

Angela McIntyre
ATIPP Coordinator

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant