On April 4th, the Department of Transportation and Works received your request for access to the following records/information:

I would like a copy of the Latest Access Permit granted to Specialty Homes for a subdivision on Bauline Line, Torbay. There is a road here now but under studying it has to be moved away from [redacted]. I want the specs on the access spacing requirements for this road. I want to know how many metres it will be moved away from [redacted]. I would also like to know where the measurements are taken from? Are the measurements taken from the pavement on Bauline Line, starting at the [redacted] to the centre of the new access road?,

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Transportation and Works to provide access to some of the requested information. In particular, access is granted to the following records:

1. Highway Access Permit
2. Responsive emails (February 17th – April 4th, 2016) containing:
   - Correspondence between Superintendent of Operations & applicant
   - Emails detailing measurements of approved access road for the four lot subdivision

P.O. Box 8700, St. John’s, NL, Canada, A1B 4J6
Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the *Access to Information and Protection of Privacy Act* (the *Act*):

40. (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.

As required by 8(2) of the *Act*, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The Act also 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 appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). 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. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to 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* (a copy of this section of the *Act* has been enclosed for your reference).

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 the undersigned by telephone at 729-5303 or by e-mail at michellemurray@gov.nl.ca.
Sincerely,

Michelle Murray  
ATIPP Coordinator  
Department of Transportation and Works  
Enclosures
Disclosure harmful to personal privacy

40. (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.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person’s health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

   (i) personal information that is supplied in support of the application for the benefit, or

   (ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or
(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether
(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person’s personal privacy.

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 is notified of the commissioner’s refusal under subsection 45(2).
DEPARTMENT OF TRANSPORTATION & WORKS

TW/026/2016

Access Permit Specialty Homes

Table of Contents

1. Responsive Document - Highway Access Permit
2. Responsive Document - Emails
HIGHWAY ACCESS PERMIT

This permit authorizes:

To construct: [ ] access(s), or to use the existing access(es), to [Name of road and/or street] at [Proposed Development]

Subject to the following conditions:

1. All work is to be done according to the plans and specifications attached.

2. All conditions attached are applicable.

3. All work is to be done by the permit holder.

4. The new access (as) being constructed, or the existing access (as) improved, to the design now stipulated and/or detailed by the specification attached.

5. Other work necessary on the Right of Way Reservation in conjunction with the proposed access (as) construction or usage of an existing access.

6. Will be installed by Department of Transportation and Works maintenance forces as soon as Departmental equipment is in the general vicinity and after being informed by the permit holder that the required pipe has been delivered to the access site. A fee rate of $40.00 will be charged to install an access.

***DISCLAIMER***

The permit holder is advised to ensure that any well, existing or to be constructed, on the property should be protected to avoid contamination from salt used for ice control. A drilled well, properly sealed, will offer the best protection. The Minister accepts no liability for salt contamination to wells (a) on this property after this date, nor does the Minister accept liability for damage to any plumbing or fixtures as a result of salt contamination of wells on this property, after this date.

For any further information regarding your proposed access (as) contact:

Name: [Redacted]

Telephone Number: [Redacted]

I have read and understand the above.

[Redacted]

June 19, 2014

June 9, 2014
I road will be moved over to allow 30m measured center to center and previously stated.

Christian Morris  
Superintendent of Operations  
Department of Transportation and Works  
Harding Road - White Hills  
St. John's, NL A1B 4J6  
P.O.Box 21301  
t (709)-729-6264  
e christianmorris@gov.nl.ca

Hi Christian

Just one more question  
This 30 metres, is it going to be measured from the edge of the Bauline line pavement centre to centre? Highway design informed me that’s where it is supposed to be measured from once.  
Right now the road is 17m centre to centre taken from the edge of Bauline line pavement.  
The developers took it from boundary lines centre to centre for court which gave them a greater distance.(22.23m)

I appreciate if you could let me know

Thanks

All The Best

> On Mar 31, 2016, at 1:18 PM,  wrote:
> >
> >  All The Best
> >
On Mar 31, 2016, at 12:16 PM, "Morris, Christian" <ChristianMorris@gov.nl.ca> wrote:

Hi.

Yes this is approved, and the access will be 30m from yours, measured center to center.

Thank you

Christian Morris
Superintendent of Operations
Department of Transportation and Works Harding Road - White Hills St.
John's, NL A1B 4J6 P.O.Box 21301 t (709)-729-6264 e christianmorris@gov.nl.ca

-----Original Message-----

From: [Redacted]  
Sent: Thursday, March 31, 2016 11:51 AM  
To: Spencer, Garry L.; Minister, TW; Morris, Christian  
Subject: Bauline Line

Dear TW

I just wanted to inform you of the recent disputed access road off Bauline Line, Torbay is now getting extended. This road is now being extended beyond the 4 lot subdivision for a much larger development. I am wondering if this extension is approved by TW? Also where exactly in metres is the now approved access for the four lot subdivision away from [Redacted] centre to centre? They are using an Access but it is not the latest approved one.

Regards

"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."
Hi

Yes this is approved, and the access will be 30m measured center to center.

Thank you

Christian Morris
Superintendent of Operations
Department of Transportation and Works
Harding Road - White Hills
St. John's, NL A1B 4J6
P.O.Box 21301
t (709)-729-6264
e christianmorris@gov.nl.ca

Dear TW

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Regards
No, a developer had no jurisdiction to \__\textcolor{red}{\text{REDACTED}}\__\textcolor{red}{\text{REDACTED}}. Any relocation would require approval from our Department.

Thank You

Christian Morris
Superintendent of Operations
Department of Transportation and Works
Harding Road - White Hills
St. John's, NL A1B 4J6
P.O.Box 21301
t (709)-729-6264
e christianmorris@gov.nl.ca

----Original Message-----
From: \__\textcolor{red}{\text{REDACTED}}\__\textcolor{red}{\text{REDACTED}}
Sent: Wednesday, February 17, 2016 12:04 PM
To: Morris, Christian
Subject: Bauline Line

Hi Mr. Morris
I am aware of the recent court decision with specialty homes and TW.
I just need one question answered if you could help me.
Can this developer \__\textcolor{red}{\text{REDACTED}}\__\textcolor{red}{\text{REDACTED}}?

If you can't answer this question, could you please let me know who could?

Regards
\__\textcolor{red}{\text{REDACTED}}\__\textcolor{red}{\text{REDACTED}}