Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FA/47/2017

On September 20, 2017, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

"I would like all the information you can obtain and how [redacted] has claim to a piece of land situated in Tors Cove. I live on the lot next to her and I don't think she has any clear title. My land is listed under [redacted] and the information I have from Crown Lands is Vol-31 F01-171 on my aerial view. Our land was surveyed by William Doyle & Associates and the Job No was 94-1009. If you need anything else please let me know."

Clarified on September 20, 2017 to:

"Could you please provide any and all correspondence, memos, documents in any form of media related to this piece of land in question. [Redacted] told us she owned the land in 1997, but she apparently produced papers to Crown Lands somewhere between 2010 and 2015."

Please be advised that a decision has been made by the Deputy Minister for FLR to provide partial access to the requested information. Please note that access to specific information contained within the records has been refused in accordance with Sections 40 (1) Personal Privacy. A full list of relevant legislation is attached. As required by 8(2) of the Act, we have severed information that is exempt from disclosure and have provided you with as much information as possible.

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 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
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 contact me by telephone at 709-729-3730 or by email at hollyphilpott@gov.nl.ca

Sincerely,

Holly Philpott
ATIPP Coordinator

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

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.

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).
To:  Joe Connors  
       Crown Lands Division
From:  Tors Cove

Attached is the history of the property at Tors Cove which we discussed last week. My property which we purchased in 1972 is the same size and shape as that shown as granted to [redacted] (see attached diagram.) I have shaded the outline of the approximate boundary of my land. My land seems to have been cut off on the far side from the highway to accommodate a roadway of some sort, seemingly an access to property claimed by [redacted].

Interestingly, [redacted] contacted me recently to sell him a portion or all of my land to allow access to this property where he planned to build a house. He did not tell me that they had already claimed part of my land.

If you require any further information, please call me at [redacted]. I will be out of the province from September 16-28 but if you need to speak to someone concerning the property, please contact [redacted].

Thank you.
History of Land at Tors Cove

1886

Equal parcels of land granted to [redacted].

While the grant for [redacted] is on record, the other grant is missing and believed lost in a fire.

1920's or 30's

Ownership of land passes to [redacted].

1930's - 1940's

[redacted] uses the land to grow vegetables and to cut hay. Land is fenced - a fence which was in existence until removed by [redacted] in the 1970's. Local men remember this fence and can say that the ground was known as [redacted] garden.

There also exists evidence of a rock wall which indicates use of the land from an earlier time.

1950

Newfoundland Light and Power Company Limited paid [redacted] for a right of way over this parcel of land.

1972

[redacted] sells land for the sum of $75.00 to [redacted].

The [redacted] make application to the appropriate government department to build a house on this property but are refused on the grounds that the land is outside community services.

1979

[redacted], then owner of the adjacent property, sent surveyor, Hubert Power, to Cape Broyle to discuss the common boundary with my [redacted]. He told him to contact my [redacted] and me, which he did.
BILL OF SALE

FOR THE SUM OF FIFTY DOLLARS ($50.00), MY OWN, LOCATED ON THE MAIN ROAD BETWEEN MOBILE AND TORS COVE, THE BOUNDARIES ARE AS FOLLOWS:

TO THE WEST OF THE SOUTH SHORE ROAD 310', TO THE NORTH CROWN LAND 575', TO THE EAST CROWN LAND 310', AND TO THE SOUTH, THE LAND OF


WITNESSES:

September 9, 2010
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
15 ch. 40 L, and containing two acres three rods and ten perches more or
less as per diagram hereto attached marks A which is deemed to be part and
parcel of these presents (reference being thereunto has will more fully appear)
ALSO ALL THAT piece or parcel of land comprised in a conveyance there of from
the said to the said vendor dated the twenty eighth day of
October Anne Domini one thousand eight hundred and ninety one and described
therein as follows ALL THAT piece or parcel of land situate near Fowler's
Road Spruce Hill "Topsail on the south shore of Conception Bay Newfoundland
and bounded as follows on the north by land belonging to one on the
east by said Fowler's Road on the south by property claimed by
estate and on the west by land belonging to one containing in all about
two acres and seven perches (reference being had to the diagram on the
third page hereof will more fully appear and which is deemed to be part and
parcel of these presents TO HOLD the same unto and to the use of the said
vendor forever IN WITNESS WHEREOF The said parties to these presents
have hereunto their hands and seals subscribed and set the day and year
first before written.
DELIVERED in presence of
Newfoundland St John's to wit: I , of St John's aforesaid make
oath and say I was present at Topsail in the Island aforesaid on the 25th day
of November D 6 1942 and saw of Chambelains Topsail aforesaid Fisherman the vendor named in the foregoing
conveyance duly sign seal and execute the same.

FEE $ 2.75

Be it remembered that on the 6th day of
Sept. 1950 at 4.20 P.M. a certain convey-
ance was deposited for registration which
was proved upon the affidavits of
and was duly registered as follows

Registrar

KNOW ALL MEN BY THESE PRESENTS That I, of Topsail Cove
in consideration of the sum of ten dollars ($ 10.00) in hand paid to me
by Newfoundland Light and Power Company Limited of St John's in the
Island of Newfoundland the receipt whereof is hereby acknowledged have
granted and by these presents do grant to the said company a right of way

Registrar
in perpetuity in any over my land and property situate at Tors Cove or sufficient with to erect poles and to place anchors and to string wire with power to the company to cut and remove trees wherever necessary it being understood that the right of way is to be used for the purpose of carrying and conveying electric current over my said land and I do hereby empower the company the right at all times to send its employees and servants over the said land for the purpose of surveying and erecting the said pole lines and I do hereby expressly empower the employees, servants, and agents of the company to enter upon my said land at any time that it may be necessary and expedient for them so to do in order to repair and maintain the said poles, anchors, and wires and to substitute new poles, anchors, and wires for old if at any time it may be necessary for the company in its own discretion so to do. IN WITNESS WHEREOF I have hereunto set my hand and seal subscribed and set at Tors Cove the 16th day of January A D 1941, [Signature] (LS) SIGNED, SEALED AND DELIVERED in the presence of James Canning, Neufundland as I James Canning of St John's Surveyor make oath and say I was present and did see [Signature] the party named in the foregoing and do hereby execute the same as I am the subscribing witness to such execution. James Canning SWORN at St John's this 25th day of January A D 1941 Before me H.M. MacKinnon Q.C.

ATIPPA Section 40 (1)

Be it remembered that on the 6th day of Sept 1950 at 4, 20 'M. a certain conveyance was deposited for registration which was proved upon the affidavit of J. Canning and was duly registered as follows:

Registrar

KNOW ALL MEN BY THESE PRESENTS THAT I [Signature] of Mobilla in consideration of the sum of twenty dollars ($ 20.00) in hand paid to me by Neufundland Light and Power Company Limited of St John's in the Island of Neufundland the receipt whereof is hereby acknowledged have granted and by these presents do grant to the said company a right of way in perpetuity in and over my land and property situate at Mobilla of sufficient width to erect poles and to place anchors and to string wire with power to the said company to cut and remove trees wherever necessary it being understood that the right of way is to be used for the purpose of carrying and conveying electric current.

ATIPPA Section 40 (1)
March 16, 2014

Dear [Name],

This letter is in reference to your letter of September 15, 2013 concerning your private land claim located in Mobile that was purchased from [Name] in 1972.

You had indicated in your letter that you believe this parcel of land was part of a grant issued to the [Name] one was [Name] and the other grant may have been lost in the great fire. I have checked our records and can find no record of a grant being issued next to [Name]. I did check the grant issued to [Name] which stated the land, at that time, ungranted.

In order for this Department to recognize your private land claim and place your ownership on departmental mapping we require you to complete the enclosed Crown land application for a grant under Section 36 (squatter's rights) of the Lands Act. I have enclosed a copy of our web page concerning squatter's rights or you can visit our web site at: http://www.env.gov.nl.ca/env/lands/ownership/squatters.html.

A non-refundable processing fee of $113.00 must accompany the application when submitted to this office for processing. This Department will then conduct an investigation if approved, you will be required to submit, within one year, a legal survey for the parcel of land and pay a fee of $200.00 for the cost of the grant and a $200.00 title preparation fee for preparing and registering your Crown land title at our Crown land Registry.

If you require any additional information please contact the undersigned.

Yours truly,

Gary Myler
Land Management Officer
729-0193
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
September 15, 2013

Mr. Steve Barnable  
Eastern Regional Lands Manager  
Crown Lands Registry  
Higgins Line  
St. John’s, NL  
A1B 4J6

Dear Mr. Barnable:

As a follow-up to my letter of September 12, I am enclosing copies of the documents which I submitted to your department back in 2010. They give the history of the piece of ground which is adjacent to that showing on the map as property of [redacted] did purchase this property from my uncle back in 1972 and he had used the land for many years.

I would appreciate your giving this matter your attention as, once again, someone is trying to take property which belongs to me. As soon as I receive the survey from the surveyor, I will be applying for rights to this piece of property.

Thank you for your time and attention.

Yours truly,
BILL OF SALE

SOLD TO

FOR THE SUM OF EIGHTY DOLLARS ($80.00). MY GARDEN LOCATED ON THE MAIN ROAD BETWEEN MOBILE AND TONS CAMP. THE BOUNDARIES ARE AS FOLLOWS

TO THE WEST THE SOUTHERN EDGE
ACROSS 31C, TO THE EAST
CROWN LAND 31A, TO THE EAST
CROWN LAND 31A, TO THE EAST

TO THE SOUTH, THE LAND OF
GENEVIEVE PEWERSH

DATED AT ST. JOHN'S, JANUARY 1972

WITNESSES:

ATIPPA Section 40 (1)
Wayne White Law Office PLC Inc.
Barrister, Solicitor & Notary Public

May 23, 2014

By Fax 729-0726
Department of Environment & Conservation
Government of Newfoundland & Labrador
Crown Lands Registry, Howley Building
P.O. Box 8700
St. John's, NL, A1B 4J6

Attention: Mr. Gary Myler

Dear Sir:

Re: Our Client: Property: Southern Shore Highway, Tors Cove, NL

We write as solicitors for [redacted] and further to your letter of March 16, 2014 to [redacted]

Please find attached copy of the Declaration of Ownership we will be filing with the Registry of Deeds today on behalf of [redacted] and [redacted] we will discuss this matter with [redacted] and take instructions on whether she will be making application to your office for a Quit Claim Deed for her subject property.

We trust the above and attached are in order; however, should you have any questions regarding this matter please do not hesitate to contact the undersigned.

Yours truly,

WAYNE WHITE LAW OFFICE

Per: Wayne White

Attachment
THIS DECLARATION OF OWNERSHIP made at ___________ in the Province of Newfoundland and Labrador this __ day of ___________, 2014.

OF: ATIPPA Section 40 (1)

of Tors Cove, in the Province of Newfoundland and Labrador,

(hereinafter called the "Declarant")

WHEREAS the Declarant is the owner of ALL THAT piece or parcel of land situate on the Southern Shore Highway running through Tors Cove, in the Province of Newfoundland and Labrador, measuring approximately 575 feet by 310 feet, which property is more particularly described in the attached Schedule "A" (hereinafter referred to as the "Property");

AND WHEREAS the Declarant declares that she is the owner of the Property by virtue of the following:

ATIPPA Section 40 (1)

A. That her successor in title, ___________ owned, used, occupied and possessed the Property, including have farmed and fenced the Property, from at least the 1920s or 1930s until he sold it to the Declarant and her ___________ in 1972;

ATIPPA Section 40 (1)

B. That the said ___________ granted easements/rights of way to Nfld. Light and Power Co. Ltd. over the Property by grants dated September 6, 1950 and August 5, 1964 copies of which grants are attached hereto as Schedules "B" and "C" respectively;

ATIPPA Section 40 (1)

C. That by Bill of Sale dated January 20, 1972, the original of which is attached hereto as Schedule "D", the said ___________ sold the Property to the Declarant and her then ___________;

ATIPPA Section 40 (1)

D. That the Declarant and her ___________ possessed the Property until ___________ and by Court Order dated December 2, 1993 the Declarant was given full ownership of the Property;

ATIPPA Section 40 (1)

E. That the Declarant has possessed the Property alone since she acquired full ownership on December 2, 1993,

AND WHEREAS the Declarant is desirous of filing with the Registry of Deeds for the Province of Newfoundland and Labrador a Declaration of Ownership of the Property, declaring the Property to be properly owned by her;

NOW THIS DECLARATION WITNESSETH that the Declarant hereby declares that she is the owner of the Property, being all that piece or parcel of land situate on the Southern Shore Highway running through Tors Cove, in the Province of Newfoundland
and Labrador, which piece or parcel of land is more particularly described in the attached Schedules "A", "B", "C" and "D" (which Schedules "A", "B", "C" and "D" form part and parcel of these presents) TOGETHER WITH all buildings and erections thereto.

SIGNED, SEALED AND DELIVERED
by the Declarant in the presence of:

[Signature]

ATIPPA Section 40 (1)
SCHEDULE "A"

ALL THAT piece or parcel of land located on the Southern Shore Highway at Tors Cove, in the Province of Newfoundland and Labrador, abounded and abutted as follows:

Commencing at a point being the north east corner of land granted to (which grant is registered in Volume 31 at Folio 171 of the Crown Lands Registry for the Province of Newfoundland and Labrador) and formerly owned by (ATIPPA Section 40 (1))

Thence running in a northerly direction along the Southern Shore Highway for about 310 feet;

Thence running in an easterly direction along crown land for about 575 feet;

Thence running in a southerly direction along crown land to a point being the corner of the said land granted to (ATIPPA Section 40 (1)) and lands granted/leased to (ATIPPA Section 40 (1)) (which grant/lease is registered in Volume 291 at Folio 31 of the said Crown Lands Registry) for about 310 feet;

Thence running N 44° 20' 16" E along the said lands granted to for about 575 feet to the point of commencement;

Which property is identified as "Land of and marked with /// on the attached page from Crown Lands mapping, which page is hereby incorporated as part and parcel of this Schedule "A"."